



Perspectives on Transforming Civil Justice in the United States

Acknowledgements

NORC at the University of Chicago appreciates the opportunity to study the issue of accessible and equitable civil justice for all people in the United States. We thank the civil justice leaders who generously gave their time in sharing their reflections on civil justice, identifying promising approaches, and recommending ways to guide reforms and innovations currently underway.

We thank the Legal Services Corporation (LSC) for inviting us to observe their *Innovations in Technology* Conference in January 2019 in New Orleans, Louisiana. This allowed us to hold interviews and a group discussion about the study with conference attendees. We appreciated the attendees sharing their concerns about civil legal justice today and offering input on our study design. We thank Miriam Childs, Director of the Law Library of Louisiana, for letting us use the library's Rare Book Room to conduct interviews with conference attendees. We also thank LSC for inviting us to its 45th Anniversary Luncheon, Forum on Increasing Access to Justice, and Supreme Court Reception on April 9, 2019, in Washington, D.C. It was a great opportunity to learn more about LSC's work and to meet many people we had interviewed over the phone, among others.

Finally, we are grateful to all those who reviewed and commented on drafts of this report. In addition to the review by Erika Rickard (The Pew Charitable Trusts) and Chris Kabel (The Kresge Foundation) and their colleagues, we were fortunate to receive feedback from Sandy Ambrozy, April Faith-Slaker, Victor Quintanilla, Ann Rasenberger, and Mary Slosar. We are also thankful for the input of our colleagues Margaret Hargreaves, Cheryl Casnoff, and Lisa Stein. We are especially thankful to David Udell, Founder and Executive Director of the National Center for Access to Justice at Fordham Law School, for sharing his expertise and substantive input in his thorough and thoughtful review of the first and last drafts. We thank Dino Stoneking of Stoneking Studios for his work on the report design.

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Vision of a Modern Civil Justice System

Civil justice: the accessible and equitable resolution of common civil issues related to topics such as health, housing, employment, marriage, education, child welfare, and money, among others.

From December 2018 to May 2019, NORC interviewed a sample of **38** national leaders in civil justice and related fields and conducted a literature review to better understand promising approaches and prospects for transforming the civil justice system to achieve accessible and equitable justice for all. These leaders articulated a vision of a modern civil justice system rooted in five principles.

Principle 1: Person Centered

Organized around people seeking civil legal help and support, like self-represented litigants, rather than lawyers, legal systems, or courts

Examples of strategies:

- **Participatory design** that includes users in design and development processes
- **Self-help centers** that offer free access to legal resources for self-represented litigants
- **Judicial engagement and training** to make courts more accessible and responsive to self-represented litigants' needs
- **Communications campaigns** that increase public and policymaker awareness on civil justice issues

High-Resonance Issue:

Racial biases in the administration of fees and fines

Example: The fines and fees reform movement addresses disparate consequences of fees related to both criminal convictions and other civil matters like child support. Ongoing campaigns within criminal and civil justice aim to address racial biases within the fines and fees systems.

Principle 2: Accountable

Aimed at preventing systemic problems at the root of civil complaints by holding wrongdoers and unjust laws and systems to account

Examples of strategies:

- **Community engagement** in legal and policy reforms that empower communities
- **Government enforcement** through litigation and other mechanisms for consumer protection
- **Class action litigation** using the law to account for large-scale injustice

High-Resonance Issue:

Right to counsel in housing court

Example: Community-led, broad-based coalitions and citywide campaigns on rights of tenants led New York City to issue legislation offering universal access to legal aid for low-income tenants facing eviction.

Principle 3: Coordinated

Organized as a continuum of services so people can access appropriate resources when they need them

Examples of strategies:

- **Triage portals** that interactively guide users through an assessment of their legal needs and connect them to relevant resources
- **Non-Lawyer paraprofessionals** that help individuals navigate the civil justice system and access needed resources and services

- **Fee-Shifting** so that a losing party pays reasonable attorney fees and costs
- **Unbundling/Limited scope representation** to complete discrete legal tasks rather than performing the full legal service

High-Resonance Issue:

Integrating civil legal services with social determinants of health

Example: The medical-legal partnership (MLP) model embeds legal services in health care settings to address interrelated needs simultaneously.

Principle 4: Technologically Enhanced

Leveraging technology to improve efficient access to justice

Examples of strategies:

- **Digital self-help tools and resources** help mitigate financial, psychological, informational, and physical barriers to civil justice
- **Integrated online tools and attorney supports** to increase cost-effectiveness, minimize attorney time on intake, and build trust among users
- **Online dispute resolution** to enable asynchronous, remote dispute resolution

High-Resonance Issue:

Economic vulnerability due to criminal records

Example: Pennsylvania's Clean Slate Act of 2018 automates sealing of criminal records to alleviate barriers to employment and economic well-being among formerly incarcerated people.

Principle 5: Data Driven

Evidence-based rather than demand- or resource-driven

Examples of strategies:

- **Evidence-based interventions and trials** like the Harvard Law Access to Justice (A2J) Lab
- **Aggregating data and evidence for public use** through toolkits (e.g., the Justice in Government Project Toolkit); databases and metrics (e.g., the Justice Index, LegalAidResearch.org); and research programs (e.g., ABA's Access to Justice Research Initiative)

High-Resonance Issue:

Evidence-based intervention and trial around financial distress

Example: The A2J Lab is conducting a randomized control trial to generate evidence regarding the most effective and appropriate intervention(s) to help individuals recover from debt crises. The study began with development of an evidence-based self-help assistance packet that forms the core of the intervention.

Key Takeaways



Many overlapping efforts expand access to and improve civil justice that center around:

- Use of **non-attorney supports** (e.g., self-help tools, paraprofessionals, online dispute resolutions)
- More **efficient use of attorney supports** (e.g., innovative technology, judicial engagement and training unbundling)
- **Targeting underlying systems of inequity** (e.g., communications campaigns, community engagement, government enforcement and class action litigation)

Most approaches seek systems changes so that civil justice is more equitable and accessible for all.



Efforts to scale or replicate approaches to civil justice require changing policies around a broad range of issues: identifying and diversifying sources of funding, enhancing workforce capacity, increasing multidisciplinary collaboration and coordination, raising awareness and achieving narrative change, and providing an evidence base using data and research.



There is a lack of data or evidence on effectiveness for many civil legal interventions. For this reason, identifying common solutions or priorities to bring civil justice to scale remains a challenge.

| Introduction |

Civil justice is the accessible and equitable resolution of common civil issues related to topics such as health, housing, employment, marriage, education, child welfare, and money, among others. As the Civil Justice Improvements Committee of the Conference of Chief Justices explains, “Civil justice touches every aspect of our lives and society, from public safety to fair housing to the smooth transaction of business.”¹ Although civil justice concerns permeate everyday life, growing income inequality, reduced government investment in the social safety net, and a legal system that is costly and difficult to navigate mean that many civil legal issues go unaddressed or are addressed unfairly.² This is especially true for low-income people and racial and ethnic minorities.³ The justice gap, or difference between the civil legal needs of low-income Americans and the resources available to meet those needs, is considerable; a nationally representative survey found that 71 percent of low-income households experienced at least one civil legal problem over the course of a year, and 86 percent of these problems received inadequate or no legal help.⁴

Growing demand for affordable and effective civil legal services has challenged legal service providers, advocates, and other stakeholders to develop new approaches to achieve justice for all. In 2015 the Conference of Chief Justices/Conference of State Court Administrators (CCJ/COSCA) unanimously passed Resolution 5, “Reaffirming the Commitment to Meaningful Access to Justice for All.”⁵ This built upon previous resolutions emphasizing the responsibility of the Judiciary Branch to ensure access to justice for all, particularly regarding basic human needs among those who lack the resources to pay for legal assistance. It declared support for the “aspirational goal of 100 percent access to effective assistance for essential civil legal needs... through a continuum of meaningful and appropriate services,” and urged national organizations to assist states in achieving this goal.⁵ Several foundations joined to encourage the implementation of Resolution 5 by sponsoring the Justice for All Initiative, which supported states to conduct assessments, develop strategic plans, and ultimately develop innovative projects to enhance access to civil justice.^{6,7} It continues decades of work to improve access to justice in the United States through innovations, including the use non-attorney supports, technological enhancements, policy and funding changes, and communication strategies. These innovations play out across a range of issues, including those that highly resonate with low-income people, such as racial justice, economic well-being, health, and housing.

Seeking to better understand these innovations and prospects for transforming the field of civil justice, NORC at the University of Chicago undertook an assessment of current developments. Our goal was to describe how civil justice leaders see the future, identify the current range of approaches to civil justice, and create recommendations to guide and accelerate the significant changes, reforms, and innovations underway to achieve a modern, accessible, and equitable civil justice system. Support for this project was provided by The Pew Charitable Trusts (Pew) and The Kresge Foundation (Kresge).

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- 1 Conference of Chief Justices Civil Justice Improvements Committee, “Call to Action: Achieving Civil Justice for All.”
 - 2 Robert Frank, “How Rising Income Inequality Threatens Access to the Legal System”; Lincoln Caplan, “The Invisible Justice Problem”; Robert Gordon, “Lawyers, the Legal Profession and Access to Justice in the United States: A Brief History.”
 - 3 Rebecca Sandefur, “Access to Civil Justice and Race, Class, and Gender Inequality.”
 - 4 Legal Services Corporation (LSC), “The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans.”
 - 5 Conference of Chief Justices and Conference of State Court Administrators, “Resolution 5: Reaffirming the Commitment to Meaningful Access to Justice for All.”
 - 6 Center on Court Access to Justice for All, “Justice for All Initiative.”
 - 7 National Center for State Courts, “Justice for All State Planning Documents: Lessons from the Field.”

| Methods |

From December 2018 to May 2019, NORC interviewed a sample of national civil justice leaders about their work, perspectives on civil justice, and visions of a modern civil justice system. We advised Pew and Kresge on developing an interview sample that included a range of expertise and perspectives. Pew and Kresge identified over 60 leaders in the areas of technology, policymaking, advocacy, communications, legal representation, impact litigation, process design, network and leadership development, and grassroots organizing. Some individuals represented multiple civil justice sectors such as courts, legal aid, foundations and funders, academia, and nonprofits. From this sample, NORC ultimately conducted 36 interviews with 38 people: 34 who worked primarily on civil legal justice and 4 who worked in the overlapping fields of economic development, human services, and housing. Twelve interviews were with organizations that were current or former Kresge grantees, and two were current Pew grantees. Interviewees also included senior leadership at Pew and Kresge. With their permission, we have included the names and affiliations of all interviewees in Appendix A. Throughout this report, we refer to participating interviewees as key informants or informants.

While the qualitative findings from the interviews are the core of our assessment, we also examined recent peer-reviewed and gray literature on civil justice. We reviewed recent articles and reports to gather context and supplement and clarify issues, histories, and approaches to civil justice raised in interviews. We were fortunate to review and include articles from the “Access to Justice” issue of *Daedalus* released in January 2019. The issue is part of an ongoing initiative led by the American Academy of Arts and Sciences to identify and improve opportunities for equal justice under the law in the United States.⁸

We coded evidence from interviews and reviewed the literature to:

- Analyze themes
- Explore complex issues such as relationships between poverty, racism, and justice
- Study the role civil legal justice plays in achieving justice and equity across the United States
- Examine the relative value of innovations and evidence of effectiveness of civil legal approaches
- Identify the challenges of the current legal system
- Offer visions of a more ideal system that could achieve justice for all

We used a framework of systems-level change to guide our analysis, to describe aspects of key informants’ ideas for an improved or modern civil justice system, and to identify promising approaches that uphold shared principles for that system. We provide a complete description of our methodology and our interview guide in Appendix A.

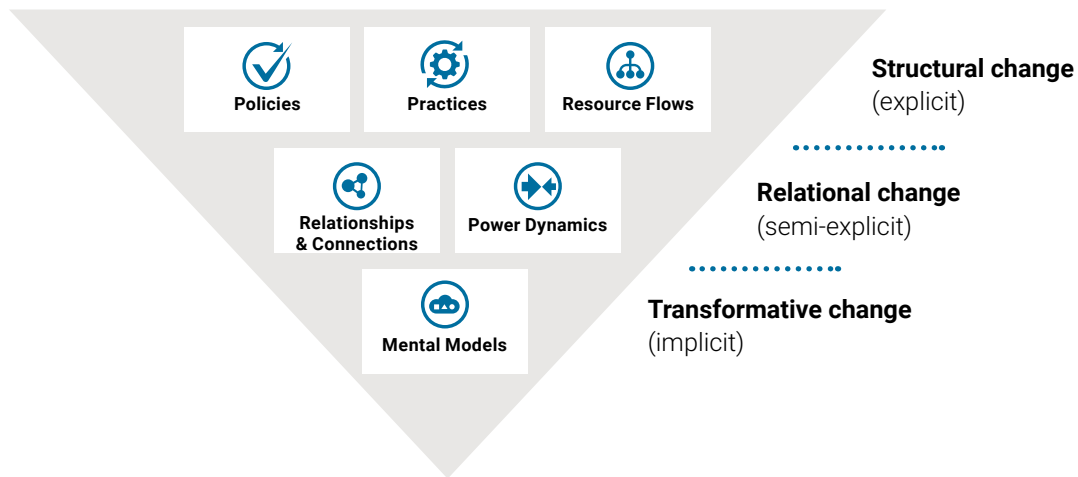
Our assessment has several limitations. First, it is not intended to be representative of the civil justice field and related activity. It is based on a small sample of stakeholders identified by the study’s sponsors, some of whom have interests in maintaining or achieving investments from those sponsors for their work. While this may be understandable given their shared commitment to civil justice, we recognize this bias in the sample. Second, given the timeline and resources for the study, only a portion of identified stakeholders (49 percent) were ultimately invited to participate in an interview. More interviews may have provided information on additional approaches to civil justice, strategies for scaling innovations, or recommendations for the field. Finally, this project was not intended as an evaluation of the approaches presented in this report, although we present evidence of effectiveness where available.

8 Levi and Rubenstein, “Introduction.”

| Framework of Systems Change |

This project begins with the premise that the current field of civil justice can be transformed to provide more accessible, equitable justice for all using systematic approaches that, upon evidence of success, may be disseminated and replicated or scaled. A model of systems change can clarify how different approaches may work singularly or together to transform civil justice. FSG’s framework for systems change provides a helpful structure for considering the many different approaches currently used to transform and modernize the civil justice field.⁹ This framework includes six conditions or approaches that contribute to systems change. These approaches are grouped within three different levels: structural (explicit change); relational (semi-explicit change); and transformative (implicit change).¹⁰ FSG argues that sustainable systems change is achievable when working at all three levels of change. For our assessment, we conceive sustainable systems change as achieving a modern civil justice system (see Exhibit 1).

Exhibit 1: Transforming Civil Justice: A Framework of Systems Change



Achieving a Modern Civil Justice System

Adapted from J. Kania, M. Kramer, and P. Senge, “The Water of Systems Change,” Boston 2018, https://www.fsg.org/publications/water_of_systems_change.

FSG defines structural or explicit changes as:¹¹

- **Policies:** “Governmental, institutional, and organizational rules, regulations, and priorities that guide the entity’s own and others’ action.”
- **Practices:** “Espoused activities of institutions, coalitions, networks, and other entities targeted to improving social and environmental progress. Also within the entity, the procedures, guidelines, or informal shared habits that comprise their work.”
- **Resource Flows:** “How money, people, knowledge, information, and other assets such as infrastructure are allocated and distributed.”

⁹ Kania, Kramer, and Senge, “The Water of Systems Change.”

¹⁰ Kania, Kramer, and Senge, “The Water of Systems Change: Top Takeaways.”

¹¹ Kania, Kramer, and Senge, “The Water of Systems Change,” 4.

Changing policies, practices, and resource flows are critical to systems change, and changes at this level are more easily evaluated and measured than at the other levels. Though often a focus, structural changes are considered difficult to sustain or enforce without changes at the other two levels.

At the semi-explicit or relational level, the framework emphasizes relationships and connections and power dynamics, which are defined as:¹²

- **Relationships and Connections:** “Quality of connections and communications occurring among actors in the system, especially among those with differing histories and viewpoints.”
- **Power Dynamics:** “The distribution of decision-making power, authority, and both formal and informal influence among individuals and organization.”

While these approaches are also structural, they may be considered less objective or measurable than those in the explicit category. Yet, they can be assessed and addressed through “methodologies that build cross-sector coalitions, engage affected communities in shaping solutions, and bring an equity lens to the work.” Transforming the relationships of people working throughout a system and the decision-making power of relevant actors may create more capacity to sustain the structural changes made through policies, practices, and resource flows.

Finally, FSG posits that transformative change depends on **mental models**. These are defined as “habits of thought—deeply held beliefs and assumptions and taken-for-granted ways of operating and influencing how we think, what we do, and how we talk.”¹³ Mental models drive the implicit change needed to achieve transformative change. Narrative change, or work that addresses meaning attributed to particular issues or events, provides one tangible way to address mental models. Narratives can both represent a mental model and/or influence the mental models that may run counter to it.

FSG’s framework posits that coordinated work at the structural, relational, and transformational levels can achieve sustainable systems change and overcome challenges or barriers that are “holding problems in place.”¹⁴ This conceptual framework suggests a way to see connections to the larger purpose of systems change in the many individual efforts and approaches we learned about through our work. We use icons to call out how the civil legal approaches we describe in this report relate to the levels of systems change in this framework. We do so to increase awareness of the ways in which approaches may be interrelated and potentially leveraged to achieve broad-scale change.

12 Kania, Kramer, and Senge, 4.

13 Ibid.

14 Kania, Kramer, and Senge, “The Water of Systems Change,” 3.

| Report Overview |

This framework of systems change guides this report on how a sample of civil justice leaders see their field, their goals, the range of approaches they are using to achieve these goals, and the issues, constituencies, and places that have attracted the most energy. We first lay out five principles that key informants identified as central to modern civil justice. Using evidence from interviews and the civil justice literature, we illustrate how each principle may be enacted with examples from the field. We describe their strengths, challenges to implementation, and, where available, evidence of effectiveness. We also present opportunities for improvement identified by key informants related to the development of existing or new approaches.

The second half of our report shifts from principles to the process of systems change itself. We focus on highly resonant issues identified by key informants that may help demonstrate interrelated approaches to transforming civil justice. We then focus on efforts in the field to scale or replicate promising approaches to civil justice, and conclude with overarching observations about changes in the field and its readiness for transformation.

| Modeling Principles of a Modern Civil Justice System |

Civil justice leaders in our sample articulated visions of a modern civil justice system rooted in five principles to achieve justice for all the United States. These principles describe a system that would be:



- **Person-Centered:** Organized around people seeking civil legal help and support, like self-represented litigants



- **Accountable:** Aimed at preventing systemic problems at the root of civil complaints by holding wrongdoers and unjust laws and systems to account



- **Coordinated:** Organized as a continuum of services so that people seeking civil justice can access the appropriate resources for their needs when they need them



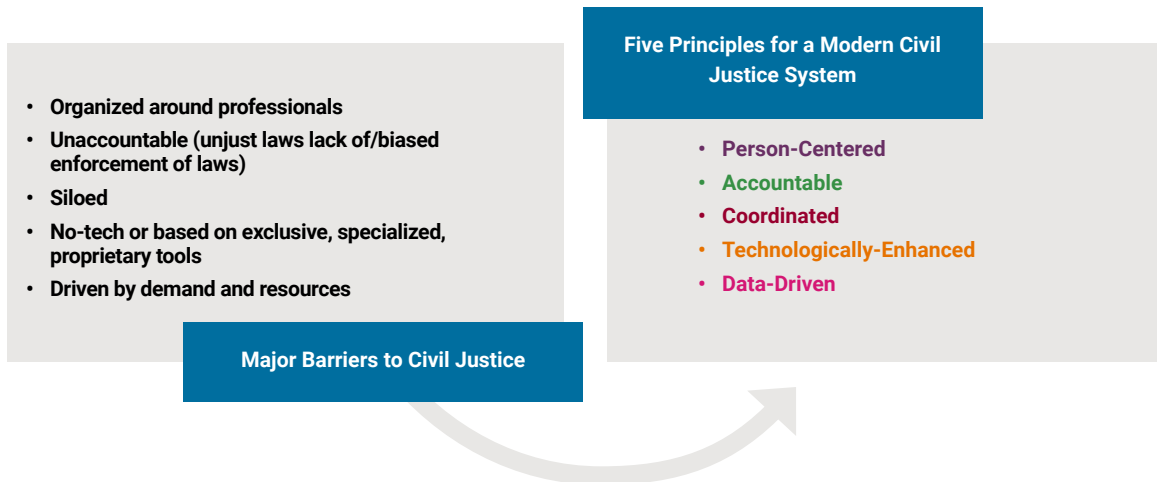
- **Technologically-Enhanced:** Leveraging technology to improve efficient access to justice



- **Data-Driven:** Evidence-based rather than demand- or resource-driven

It is beyond the scope of this project to objectively measure achievement of these principles. However, we offer examples of approaches that represent current efforts to align with one or more principles. In the context of this study, approaches are largely grouped by principles that have overcome specific barriers to justice today (see Exhibit 2).

Exhibit 2: Current Barriers to Civil Justice and Five Principles for a Modern Civil Justice System



Below, we describe each principle in greater detail based on findings from our interviews and literature review. We present examples of approaches currently used to advance or model the principle, identifying them in terms of their contributions to systems change (e.g., whether an approach relates to one or more policies, practices and resources flows, relationships and connection, power dynamics, and mental models). For each approach, we offer a summary description of related strengths and challenges, as well as evidence of effectiveness where available, and opportunities to advance each principle. Some examples may overlap and others may address multiple principles or conditions of systems change.



| Principle One: Person Centered |

A common criticism of the current civil justice system is that it was created by and designed for attorneys and is inaccessible to those not formally trained in the law, as a majority of civil justice cases involve at least one self-represented litigant (SRL). In addition, there is limited right to counsel in civil matters, and these rights vary by state and type of civil proceedings.¹⁵ Yet, besides lack of a right to counsel and the expense of seeking counsel, most people do not seek legal solutions because they do not see their problems as being legal, and legal services may or may not be appropriate for all civil legal issues or problems.¹⁶

As such, key informants highlighted a need to design person-centered ways of resolving civil justice issues that take into account the wants, needs, values, and behaviors of people with civil justice issues rather than those of lawyers, legal systems, or courts. This includes services, resources, and products that go beyond legal services. Informants pointed to existing approaches that have started to achieve structural and relational changes to make the civil justice system more person-centered and reach more just outcomes for more people.



Example 1: Participatory Design

Participatory or legal co-design explicitly incorporates users into the design and development process rather than using a proxy of experts or implementing user-testing only after the design process is complete. Rather than relying on lawyers, legal aid, or court administration groups to dictate what works best, participatory legal design actively consults and collaborates with end-users for greater engagement with courts and the legal system.¹⁷ Drawing on broader participatory design concepts, legal design is increasingly used to transform how solutions are built, services delivered, and outcomes measured within the civil justice system.¹⁸ One informant noted the need for due process in design thinking. She noted concerns that algorithms codify human biases or structural racism, and called on multidisciplinary teams, including representatives of all groups impacted by an innovation, to be involved in planning new systems designed to adjudicate rights/benefits.

Examples of participatory legal design are emerging in the civil justice field. Stanford's Legal Design Lab uses five steps in participatory design to develop person-centered legal services programs. 1) understanding the status quo of a system by conducting user and field research, 2) synthesizing the research and determining a set of target users, 3) brainstorming new ways to enable target users to solve the problem and developing prototypes of new interventions through multiple cycles, 4) testing prototypes with users and experts, and 5) refining prototypes based on feedback.¹⁹ This participatory design process has been implemented in several localities. For instance, the Escambia Project in Pensacola, Florida, is a partnership between the Florida Bar Foundation; Pathways for Change (a local

¹⁵ American Bar Association, "Civil Right to Counsel."

¹⁶ Sandefur, "Access to What?"

¹⁷ Hagan, "Participatory Design for Innovation in Access to Justice."

¹⁸ Self-Represented Litigation Network (SRLN), "Design Thinking & Agile Development: What Are They and How Do They Help Access to Justice?"

¹⁹ Hagan, "A Human-Centered Design Approach to Access to Justice: Generating New Prototypes and Hypotheses for Intervention to Make Courts User-Friendly."

community center); and Legal Services of North Florida that was led by the Stanford Legal Design Lab. The project used a multistakeholder, co-design process in which community members, social service providers, legal groups, and community leaders convened, vetted, designed, and piloted three civil justice approaches that integrated legal services in community-based social service settings.²⁰ Another example is the Court Compass project, developed by the Institute for the Advancement of the American Legal Systems (IAALS).²¹ It aimed to redesign, simplify, and improve user experience in the court system during divorce proceedings.²² IAALS subsequently developed a guide for courts and organizations interested in conducting their own participatory design process for issues beyond divorce and separation.²³

Participatory design relies heavily on collaboration between various stakeholders, primarily systems developers and users. The design process requires input from legal actors like lawyers, court systems, policymakers, systems and technology developers, and end-users, which takes time, resources, and effort. As Margaret Hagan of Stanford Legal Design Lab noted, “Getting access to people—especially the right people, is more challenging than you would expect.”²⁴ Engaging users often requires meeting people where they are comfortable, arranging conversations outside of business hours, offering one-on-one engagements, and finding relevant populations, among other factors.

Evidence of Effectiveness

While few evaluations of participatory design exist, key informants said that processes and tools developed with participation and collaboration of end-users are more effective, accessible, and responsive to user needs.²⁵ In a recent study about the use of co-design concepts developed by co-design teams that worked cohesively and collaboratively scored higher in user benefit than those developed solely by in-house professionals, though they scored lower on feasibility (i.e., effort required for implementation).²⁶ Key informants highlighted the need for more evidence around the use of participatory design within the civil legal field.



Example 2: Self-Help Centers

Given the preponderance of SRLs, key informants advocated for increasing access to self-help centers, which offer the public free information regarding how to address legal issues on their own. Often created as a partnership between civil courts, judges, and law libraries, self-help centers can be housed in libraries (law or otherwise) or courts. SRLs visit with a self-help center representative (who may be an attorney) who answers questions and provides information about what to expect in court.²⁷ Self-help centers provide an important window into the needs of SRLs. For example, one key informant related how new judges in California state courts are required to spend a day in the self-help centers to gain a better understanding of the barriers SRLs face and the resources that are available to them.

20 The Florida Bar Foundation, “Escambia Project”; Hagan, “Escambia Project Case Study Poster”; Averhart, “Escambia Project Expands Residents’ Access To Legal Help | WUWF.”

21 Knowlton, Houlberg, and Drobinske, “Court Compass | IAALS.”

22 Institute for the Advancement of the American Legal System, “Listen Learn Lead: A Guide to Improving Court Services through User-Centered Design.”

23 Ibid.

24 Hagan, “A Conversation with Public Policy Lab on Their Government Innovation Work.”

25 Hagan, “Participatory Design for Innovation in Access to Justice.”

26 Trischler et al., “The Value of Codesign: The Effect of Customer Involvement in Service Design Teams.”

27 The Administrative Office of the Courts, “Guidelines for the Operation of Self-Help Centers in California Trial Courts”; Faith-Slaker, “The Self-Help Center Census: A National Survey.”

Evidence of Effectiveness An evaluation of a pilot self-help program in California found that self-help centers facilitate an SRL’s participation in the civil justice system and improve efficiency by ensuring litigants have accurate paperwork, supporting documents, and a basic understanding of court processes.²⁸ Furthermore, a 2004 census of self-help centers by the American Bar Association (ABA) found that centers help nearly 3.7 million individuals annually; are able to assist most of their customers (though a subset of legal needs were too complicated or had case types outside the scope of the center); and have a majority of staff who believed customers would benefit from limited scope representation. However, only about a third of self-help centers provided information about limited scope services and only 15 percent indicated having a limited scope lawyer referral service.²⁹



Example 3: Judicial Engagement and Training

Key informants emphasized that judges must understand the needs of SRLs. As such, they highlighted a need to rethink rules and procedures to make courts, including judges, tribunals, and government entities, more accessible and responsive to SRLs’ needs. Many key informants advocated for states to adopt rule changes that encourage judges to support SRLs during court proceedings by asking questions that help them present their case more effectively. As of January 2019, 34 states and the District of Columbia had adopted a version of Comment 4 to Rule 2.2 of the 2007 ABA *Model Code of Judicial Conduct*, which notes it is not a violation for judges to make reasonable accommodations for SRLs.³⁰ Of these, 18 states revised or expanded the model provision with guidance pertaining to specific actions judges may take. Additionally, the Justice Index, a project of the National Center for Access to Justice at Fordham Law School (described in greater detail below), reports that as of May 2016, 23 states “authorize or encourage judges to take specified steps (for example, by providing information to the litigant about evidentiary requirements) to ensure that self-represented litigants are fairly heard.”³¹ National organizations, including the National Center for State Courts Center for Judicial Ethics,³² the Self-Represented Litigation Network (SRLN),³³ and the State Justice Institute,³⁴ have published educational resources to assist judges in working with SRLs.

Another option is for courts to leverage the “problem-solving” carve-out in the Model Code of Judicial Conduct, which asserts that judges presiding over problem-solving courts are exempted from strictures of the Model Code when “local rules specifically authorize [judicial] conduct not otherwise permitted.”³⁵ While the Model Code specifically names drug courts, no language limits local experimentation to the criminal arena. The problem-solving carve-out offers both an opportunity and a challenge to civil courts to reimagine judicial engagement with SRLs.

Other approaches to judicial engagement include simplifying processes, and expanding hours of operation and physical legal spaces to accommodate the needs of SRLs.³⁶ Key informants provided numerous examples. These included establishing an uncontested docket that operates at set times throughout the week and handles simple matters such as agreed orders, uncontested cases, or minor case

28 Judicial Council of California, “Model Self-Help Pilot Program: A Report to the Legislature.”

29 Faith-Slaker, “The Self-Help Center Census: A National Survey.”

30 National Center for State Courts Center for Judicial Ethics, “Self-Represented Litigants and the Code of Judicial Conduct.”

31 The Justice Index, Support for Self-Represented Litigants.

32 National Center for State Courts, “Module A: Judges, Ethics and the Self-Represented Litigant-The Law Today.”

33 Zorza, “Curricula: Access to Justice for the Self Represented.”

34 Gray, “Reaching out or Overreaching: Judicial Ethics and Self-Represented Litigants.”

35 Steinberg, “Local Experimentation and the Evolving Role of the Civil Judge.”

36 Legal Design Lab, “Prototyping Access to Justice: Designing Better Self-Help Materials for Litigants | Legal Design Lab.”

prove-ups; SRLs would only be able to go before the judge once their matter had been reviewed by attorneys at the self-help center. In addition, courts could extend hours into the evening and move their locations outside of the courthouse (e.g., to mobile legal clinics^{37,38} or public settings like a public library).

Evening clinics several days a month could help resolve uncomplicated matters such as simple divorces and accommodate people who work during the day. In civil matters for which the damages fall under a certain monetary threshold, informal trials in which rules of evidence do not strictly apply (e.g., Alaska’s informal trials³⁹) could be an option.

Evidence of Effectiveness

Limited evidence exists about the effectiveness of judicial engagement.

However, an experiment in the District of Columbia on a specialized Housing Conditions Court (HCC) found positive results in using engaged judges—defined through their use of questioning, investigations, and lay-language speech and forms—to adjudicate affirmative habitability claims. An evaluation of this model found that nearly two-thirds of tenant allegations are substantiated as valid; 80 percent of substantiated housing-code violations end up repaired; and the outcomes are equalized between tenants with and without counsel.⁴⁰ However, the court has yet to adopt written rules. The model places a significant time burden on all parties, who must continuously return to court, and HCC applies only to tenants who seek repairs, not damages, and who are not already being sued for eviction. The report notes that making evaluation a consistent feature of such courts could provide opportunities to replicate and scale best practices.

Example 4: Telling the Story of Legal Aid



There is growing interest in “narrative change work” among nonprofits and philanthropies that see narrative strategy as an integral part of organizing, advocacy, or litigation.⁴¹ Narratives—from political discourse and policy languages to popular culture, traditional and social media, and everyday communication with those around us—tap into shared values and multifaceted perceptions. They predispose people toward interpreting information, such that “the prevailing narrative...is a critical driver of public support, activism, and sustainability of changes in policy and practice.”⁴² Key informants stressed the major role communications and changes in narrative must play in increasing awareness about civil justice issues, for the public and policymakers alike.

Voices for Civil Justice was formed to promote communications and raise awareness about civil justice nationally. It focuses on the media, policymakers, the broader public, and the field itself. Voices recently launched a public campaign, All Rise for Civil Justice: Fighting for Civil Justice Reform, to increase visibility for civil legal aid in the national media, improve capacity for media advocacy across the civil legal aid sector, and establish a new and strengthened national identity for civil legal aid.⁴³ The website features stories of individuals in crisis and the legal aid professionals who assisted them, fact sheets, infographics, and tips on doing communications work about civil justice. While the organization is meant to be a “one-stop shop” for help communicating about today’s “civil legal crisis” and approaches to address this crisis, it puts people with legal aid issues in the spotlight.⁴⁴

Voices for Civil Justice consults its network of 1,500 members—mostly individuals from legal aid organizations—human interest for stories that can be pitched to the media and can sway public opinion about civil justice at

37 Milwaukee Justice Center, “Mobile Legal Clinic.”

38 Ward, “Kentucky Pro Bono Organization Uses Bus as Mobile Legal Aid Clinic.”

39 Alaska Court System Self Help Center: Family Law, “What Is an Informal Trial?”

40 Steinberg, “Local Experimentation and the Evolving Role of the Civil Judge.”

41 Jenkins, “Shifting the Narrative: What It Takes to Reframe the Debate for Social Justice in the US.”

42 Ibid.

43 Voices for Civil Justice, “All Rise for Civil Justice - The Civil Justice Crisis.”

44 Ibid.

local and national levels. Voices for Civil Justice tracks news stories about civil justice on a daily basis and develops a scorecard for media pieces. It tracks this information for stories that they have produced as well as those produced by other media outlets. The scorecard includes the content of the messaging as well as the prominence of the outlet or the reporter, the issues covered, the state, and the program name featured, among other factors. It circulates media pieces to its members, who then use them in their own social media campaigns or develop opinion pieces for local media.

Evidence of Effectiveness The impact of Voices for Civil Justice has not been independently evaluated. However, it has placed about 500 media pieces over the last five years and has seen an increase in the number of media pieces from about two per week to six or seven. It takes credit for helping drive media around state and for supporting national campaigns that have achieved success, such as policy changes in New York City around how evictions are handled for low-income people (described in more detail in the section on housing and right to counsel).

Opportunities for Improvement

Key informants identified recommendations for achieving a more person-centered civil justice system. They noted the need for approaches that transform how lawyers, judges, SRLs, and other key actors think about and act on civil justice issues. Key informants emphasized the need for the following:

- **Better engagement with the public** to understand the experiences of individuals and communities. Such input should be used to tweak, redesign, or, when necessary, overhaul current approaches and systems to be more responsive to the needs of the public within the constraints of the law's ethical standards and boundaries.
- **Strategies on how to improve messaging** in order to better engage the public and increase demands for and access to legal services. Some informants explained that the people who need and use the courts should better understand the importance of access to legal assistance and court systems. Others noted that courts and legal service providers should do a better job of identifying what people need and marketing to those needs.

In an analysis of marketing legal assistance, Chambliss, a contributor to *Daedalus's* Access to Justice issue, argues, “[P]roviders should market solutions to problems as understood by consumers, rather than selling themselves as providers of generalized ‘legal’ services.”⁴⁵ She notes that this approach may drive demand for more services—including services provided by non-lawyers—and ultimately bring about regulatory reforms that could expand access to justice, such as those related to the unauthorized practice of law. She writes, “Rather than fighting the bar to open the market to new suppliers, reformers should focus on attracting and mobilizing consumers to win over the bar.”⁴⁶

45 Chambliss, “Marketing Legal Assistance,” 101.

46 Ibid., 100.





| Principle Two: Accountable |

Civil legal aid is a tool to address legal problems fundamental to people’s livelihoods and well-being. Yet, these legal problems are often symptoms of broader systemic injustices and disadvantages that, due to their vast scope and complexity, cannot be resolved through direct, individual client representation. Ashar and Lai, contributors to *Daedalus’s* Access to Justice issue, contend:

Legal disputes take place in the context of a larger political field. Pure access-to-justice initiatives that ignore this context and the structural conditions that impoverish and immiserate people along lines of race, class, gender, sexual identity, and disability may bring temporary relief on an individual level, but will not fundamentally change such conditions of life.⁴⁷

Key informants urged the use of approaches that hold people, business, institutions, and even governments and the law accountable for perpetuating injustices. They also provided examples of high-impact strategies within the current civil justice system that move towards a more accountable system by addressing power dynamics, providing litigious and policy recourse to injustice, and creating better, more just policies.

“Systems are perfectly designed to get what they get. So you have to change the systems in order to change outcomes.”

–Key Informant on Policy



Example 1: Community Engagement

Community engagement was a dominant theme among key informants. Key informants viewed communities as driving social change and emphasized the ways that lawyers may support community organizations and grass-roots organizing, while being accountable to community-defined priorities and leadership. Their descriptions of community-engaged lawyering included legal empowerment (LE), community lawyering (CL), and movement law (ML).

An international emerging field stemming from the United Nations Commission on Legal Empowerment, LE ensures that individuals and communities, particularly disenfranchised communities, have an increased voice in institutional and legal reforms to expand legal protections and improve their rights.⁴⁸ LE often uses individual cases to achieve systemic change, combining small groups of lawyers with a larger frontline community of paralegals to mediate, organize, and offer legal education and advocacy to help communities find solutions to injustice.⁴⁹ LE can take many forms: community paralegal programs, mediation and dispute resolution initiatives, publicly financed legal aid services, and organizing strategies that combine impact litigation with broad mobilization efforts.

⁴⁷ Ashar and Lai, “Access to Power.”

⁴⁸ UN Commission on the Legal Empowerment of the Poor, “The Four Pillars of Legal Empowerment.”

⁴⁹ Open Society Justice Initiative, “The Global Legal Empowerment Initiative.”

CL has roots in early federally sponsored legal services in the United States and mass movements such as the labor movement and civil rights movement.⁵⁰ As an approach to the law, CL focuses “on building and sustaining relationships with clients, over time, in context, as a part of and in conjunction with communities.”⁵¹ With the goal of achieving social change, CL is viewed as part of efforts to form “large-scale, democratic organizations focused on building the power and conscious leadership of poor and working people. Community lawyering can assist fundamental and long-term change only through supporting grassroots organizing in all its aspects—community education, organizational development, and leadership development.”⁵² As CL leaders explains, in an article, this can involve a wide variety of approaches:

Depending on the campaign goals and our relationship with a particular organizer/organization, we will support a campaign with a variety of tactics including litigation, policy advocacy, research, community education, and infrastructure/institution building. In the past we have: conducted know-your-rights trainings; presented at public forums to advance campaign demands; worked with members to develop their public-speaking and writing skills; litigated individual cases on behalf of workers and residents; litigated actions on behalf of classes of workers, tenant associations, or the base-building organizations itself; drafted policies or legislation; researched and provided technical assistance to develop a campaign strategy; and provided transactional and corporate advice to new and existing organizations. Our goal is to increase our clients’ participation and control over complicated and time-consuming legal processes that can otherwise be alienating.⁵³

With further emphasis on the power of social movements, lawyers involved in movement law “creatively use legal tools to build the power of, make space for, validate, bolster, defend, and protect social movements and the activists and communities within them.”⁵⁴ Among all these forms of community-engaged lawyering, the emphasis is on communities and community leadership, not the law and lawyers.

Among the challenges facing community-engaged lawyering, low-income and racially and ethnically diverse communities generally mistrust lawyers and the law. This mistrust often stems from a history of programs and people entering communities from outside and departing without lasting impact or infrastructure, and lawyers seeking input from communities for legal remedies that do not reflect community interests or priorities.⁵⁵ Similar to participatory design, community engagement is time-intensive and often requires engaging with key members of the community, building relationships, and incorporating these members into decision-making processes. Federally funded legal service providers also face the challenge of restrictions on community organizing activities, whether or not federal funds are used for such activities.⁵⁶ However, key informants were confident that lawyers at such organizations can work in partnership with communities to engage in strategic advocacy, and some work with legal-aid organization to overcome misconceptions about restrictions that often limit them to individualized direct representation.

50 Tokarz et al., “Conversations on ‘Community Lawyering’: The Newest (Oldest) Wave in Clinical Legal Education”; Elsesser, “Community Lawyering - The Role of Lawyers in the Social Justice Movement.”

51 Tokarz et al., “Conversations on ‘Community Lawyering’: The Newest (Oldest) Wave in Clinical Legal Education,” 364.

52 Elsesser, “Community Lawyering - The Role of Lawyers in the Social Justice Movement,” 54.

53 Elsesser and Shah, “Community Lawyering.”

54 Shah, “Build the Power of Movements, Don’t Just Increase Access to Justice” in Ching et al., “A Few Interventions and Offerings from Five Movement Lawyers to the Access to Justice Movement,” 186.

55 Elsesser, “Community Lawyering.”

56 Houseman and Perle, “Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States.”

Evidence of Effectiveness A systematic review of 199 studies on the global use of LE found positive impacts of LE programs, including changes in law, policy, or practice at various levels of administration.⁵⁷ Other positive impacts include stronger agency, increased legal knowledge, and acquisition of legal remedies, effective conflict resolution, and improvements in health and education outcomes. Reviewed studies used a range of data collection methods, most commonly interviews and case studies. There are only a few limited studies of LE in the United States and it is difficult to determine effectiveness across contexts.

There are also few evaluations of the effects of CL, and determining the effects of the “lawyering” components of community organizing for social movements is difficult. A report on Bread for the City in Washington, D.C.—an agency that participated in the Community Lawyering Training Program organized by the Shriver Center on Poverty Law—described how CL increased community organizing capacity by hiring community organizers and training tenant association board members in organizing. Through this CL work, Bread for the City was able to stop the transit authority from removing bus routes from the community.⁵⁸ In addition to this measurable win, Bread for the City recognized other changes related to community power and local leadership. The program had a broader impact of encouraging attorneys beyond the Bread for the City program to engage their clients as potential leaders. Other studies have demonstrated how CL has been used as a tool to hold health systems accountable for providing translation services for limited-English proficient patients through new policies in New York City⁵⁹ and hold school systems accountable to anti-Asian and anti-immigrant harassment through Department of Justice rulings and settlement agreements in Philadelphia.⁶⁰ While a comprehensive summary of evidence related to community-engaging lawyering and social change is beyond the scope of this report, it is important to note that successful campaigns can be met with opposition and resistance that require further or different types of organizing campaigns, and that these challenges do not diminish their potential for success in the “long arc struggle and liberation”⁶¹



Example 2: Government Enforcement

Key informants noted that while state attorneys general have for decades used consumer protection authority to proactively litigate on behalf of consumers, the pursuit of civil legal cases by lawyers working for cities and states represents a relatively new and growing form of legal advocacy. Government enforcement includes the proactive civil litigation undertaken by attorneys in state and local governments to advance the public interest.⁶² This approach uses already established legal channels and governmental authorities—such as consumer protection, nuisance, code enforcement, and federal law authorities—to promote systems-level gains in sectors adjacent to the civil legal field and “upstream” of individual civil legal needs.⁶³ An approach commonly used in public health, upstream interventions focus on “improving fundamental social and economic structures in order to decrease barriers to improve supports that allow

57 Goodwin et al., “What Do We Know about Legal Empowerment? Mapping the Evidence.”

58 Healy and Taylor, “Making the Case for Community Lawyering.”

59 Cuison Villazor, “Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, of Color and Immigrant Communities.”

60 Chen and Leong, “We Have the Power to Make Change: The Role of Community Lawyering in Challenging Anti-Asian Harassment at South Philadelphia High School.”

61 Elsesser, “Community Lawyering - The Role of Lawyers in the Social Justice Movement”; Ashar, “Movement Lawyers in the Fight for Immigrant Rights,” 1507.

62 Habig et al., “Local Action, National Impact: A Practical Guide to Affirmative Litigation for Local Governments.”

63 Ibid.

people to achieve their full health potential.⁶⁴ In this way, government enforcement may be a powerful justice tool by addressing the systemic root of complaints: holding unjust laws and systems to account and making the law itself more accountable to justice.

Lack of local and federal funds are an obstacle to pursuing such enforcement. Notably, some localities such as San Francisco have been able to fund such work through revenue generated by winning civil lawsuits.⁶⁵ However, creating a sustainable program may require legislative action, which can bring its own set of political and procedural hurdles. Further, executive turnover in state and local governments may jeopardize sustainable long-term efforts, as proactive litigation taken up by one administration is not guaranteed to survive the next.

Evidence of Effectiveness No formal studies assess the effectiveness of this approach. However, a recent report issued by Public Rights Project (PRP) documents numerous localities using what they call affirmative litigation to achieve monetary rewards and legislative change.⁶⁶ Recent government enforcement victories include suits brought and won by the City of San Francisco to hold paint companies liable for the public health harms of lead paint; the Orange County District Attorney's Office to hold the grocer Albertsons accountable for improper waste disposal; and the City of Baltimore against Wells Fargo for discriminatory lending practices.⁶⁷ Each victory resulted in settlements ranging from \$2.4 million to \$1.15 billion of direct compensation to localities and injured parties.



Example 3: Class Action Litigation

While not a new approach to achieving accountability, class action litigation was cited by many key informants as a critical systems-level legal advocacy tool to hold the law to account in addressing large-scale injustice. Nonprofit law firms that are not federally funded in coalition with other stakeholders, including people affected by the issue, can lead class action litigation. The population-wide implications of such rulings, especially on matters that concern changes to government programs, make this tool uniquely effective for systemic change. Additionally, informants saw class actions as a valuable mobilization strategy when embedded within a larger campaign that involved diverse stakeholders, especially when the causes were not aligned with current political interests.

"People can never believe when I say this. I welcomed those class action litigations. It allowed me to get out in the open [what] needed to happen for what are truly marginalized populations."

—Key Informant on Human Services

However, federally funded legal aid organizations of LSC funding are prohibited from participating in class action lawsuits even if they receive funds from other unrestricted sources⁶⁸ and even if the lawsuits are led by other non-LSC organizations.

64 National Collaborating Centre for Determinants of Health, "Upstream/Downstream."

65 City Attorney of San Francisco, "Affirmative Litigation."

66 Habig et al., "Local Action, National Impact: A Practical Guide to Affirmative Litigation for Local Governments."

67 Ibid.

68 Brennan Center for Justice, "Fact Sheet | The Restriction Barring LSC-Funded Programs from Freely Using Their Non-LSC Money | Brennan Center for Justice."

Evidence of Effectiveness Despite the lack of formal evaluations of effectiveness, key informants described combining class actions with other tactics to produce long-term gains for low-income populations and hold the law accountable to people’s needs. For example, the Shriver Center on Poverty Law worked with communities to launch a class action lawsuit against a proposed requirement included in the federal Deficit Reduction Act of 2005 that would have conditioned Medicaid eligibility on documentation of citizenship.⁶⁹ The lawsuit, which was ultimately withdrawn, took place as part of a coordinated communications and political campaign that leveraged alliances across the legal community and with other advocacy groups. Ultimately, the U.S. Department of Health and Human Services (HHS) Secretary and Congress acted to exempt Supplemental Security Income (SSI) beneficiaries, Medicare beneficiaries, and foster children from the requirement—collectively, over 7 million people.⁷⁰ In this instance, class action was used as a tool to stave off government action expected to endanger the health of millions of low-income citizens, with potential negative effects on their broader well-being and civil legal needs.

Opportunities for Improvement

Informants identified several opportunities to achieve accountability within a modern civil justice system, primarily related to funding:

- **There is a need for startup capital**, particularly in the area of affirmative litigation. Informants recommended partnering with government agencies to build sustainable affirmative litigation units that do not rely heavily on public funds. Informants also suggested reinvesting monetary penalties recovered through affirmative action cases in permanent staff for the next investigation, as done in San Francisco.⁷¹
- **Funding support should be made more available for alternative legal organizations**, including those that employ community-based strategies. This would allow the field to leverage the talent of young legal practitioners who are frustrated with the current situation and energized to produce change.
- One key informant recommended that **attorneys general play a larger role in government enforcement in civil legal issues**, as attorney general advocacy is uneven across the country and could be made stronger everywhere.



69 Stapleton, “Medicaid Citizenship Documentation Requirements Do Not Apply to Foster Children and Children Receiving Adoption Assistance, Congress Confirms—But Application to Other Medicaid Applicants and Recipients Not Yet Halted”; Ku and Broadus, “New Requirement For Birth Certificates or Passports Could Threaten Medicaid Coverage For Vulnerable Beneficiaries: A State-By-State Analysis.”

70 “Bell v. Leavitt Plaintiffs Move to Dismiss Their Case Voluntarily.”

71 City Attorney of San Francisco, “Affirmative Litigation.”



| Principle Three: Coordinated |

Over time, the U.S. legal system has become one of the most costly and inaccessible systems in the world.⁷² For people facing a civil legal dispute, navigating the legal system can feel like a daunting task, as there is no clear path to follow. The civil court system has been described as a “complex maze,” which varies across states and even counties within the same state.⁷³ Civil court proceedings are often confusing and complicated, and therefore create additional barriers to justice.

Informants envisioned a more coordinated system of civil justice that aligns the current patchwork of organizations to form a continuum of services, allowing individuals to access the most appropriate level of legal support they need when and where they need it—a “no wrong door” approach.



Example 1: Triage Portals

Technology is used to facilitate alternative modes of legal representation and services delivery. Key informants recommended triage portals as a crucial innovation to make the civil legal system more focused, systematic, and effective, especially in light of resource and financial constraints. As defined in an excerpt from the literature review:

A portal is an online gateway to legal resources tailored to each user’s needs. Unlike a static website, a portal uses an interactive approach to guide users through an assessment of their legal needs and connect them to relevant information and referrals for assistance and support.⁷⁴

A key informant noted that a portal can only be as good as the resources it reaches. For example, a portal in a relatively resource-rich context such as New York City can potentially connect users to a wide range of existing resources, whereas a portal in a less-resourced place would simply not be able to provide as much, because even a well-designed portal can only lead people to what is there. Furthermore, the informant advised legal services providers to coordinate with each other so that the portal is a front door to a system rather than a phonebook of referral possibilities, each of which must be individually contacted by the consumer. The informant also noted that creating the system underneath the hood of the portal requires organizations that currently do not collaborate around issues like service priorities and intake procedures to change the ways they do routine and fundamental work. Lastly, she recommended that portals market services in consumer-friendly, rather than legal language, as most consumers do not recognize their issues as being legal issues.

There are several ongoing real-world examples of this. LSC is leading an initiative with Pro Bono Net, the Alaska Access to Justice Commission, and the Legal Aid Society of Hawaii to develop two online statewide legal triage portals. This initiative is developing an intake portal that relies on artificial intelligence to ask users about their legal problems and subsequently refer them to the appropriate service.⁷⁵ Another lower-tech example is the Coordinated Legal Education, Advice and Referral

72 Perlman, “The Public’s Unmet Need for Legal Services & What Law Schools Can Do About It”; American Bar Association Commission on the Future of Legal Services, “Report on the Future of Legal Services in the United States.”

73 Voices for Civil Justice, “All Rise for Civil Justice - The Civil Justice Crisis.”

74 The Pew Charitable Trusts, “Interactive Online Portals Offer Targeted Legal Resources on Demand.”

75 Heiner, “Milestone Reached: AI at Heart of Legal Navigator Complete, Will Connect People with Legal Resources.”

(CLEAR) Hotline run by the Northwest Justice Project (NJP), a legal aid program in Washington State. Prospective litigants are screened over the phone or through an online portal for intake based on their finances and the nature of their legal problem.⁷⁶ Based on the results of the intake call, clients may be provided brief verbal or written advice or negotiation services by an NJP lawyer, or referred to other legal aid providers.

Despite their promise, triage portals rely on access to phones or the internet, both of which may be inaccessible to people who cannot afford them or who live in areas with limited connectivity.

Evidence of Effectiveness A 2014 evaluation in Michigan assessed the effectiveness of triage portals. The Michigan Legal Help (MLH) program evaluated its interactive statewide website and affiliated self-help centers to understand their efficacy in assisting SRLs resolve divorces,⁷⁷ defined as reaching a judgment within a reasonable time frame. The evaluation was based on a quantitative analysis of a sample of representative cases from across the state of Michigan and qualitative interviews with judges, judicial staff, and staff at the self-help centers. It found that 74 percent of litigants used the website to obtain a judgment of divorce, a rate that was nearly equal to that of other SRLs and attorney-represented litigants. It also found that SRLs using the MLH website reached judgments in less time than attorney-represented litigants and other SRLs, even when controlling for factors such as complexity. Though triage portals have been widely promoted as an effective approach, evaluations of this approach are limited.



Example 2: Non-Lawyer Paraprofessionals

Key informants cited non-lawyer paraprofessionals as critical to establishing a continuum of services that meaningfully achieve access to justice. Non-lawyer paraprofessionals help individuals access the complex civil justice system and needed resources and services, such as legal navigators and Limited License Legal Technicians (LLLTs).

Various states are using trained and supervised individuals to support people who would otherwise be without legal assistance of any kind.⁷⁸ A 2019 study of 23 navigator programs in 15 state courts found that trained and supervised navigators can help SRLs do the following:

Find their way around the court; get practical information and referrals to other sources of assistance; or complete their court paperwork. Navigators also accompany SRLs to court to provide emotional back-up, help answer the judge's factual questions, or resolve a matter with opposing counsel. Program managers are mindful of admonitions against non-lawyers providing legal advice and take the need for quality assurance measures seriously.⁷⁹

However, navigators and other non-lawyers still face many practice restrictions. For example, they cannot appear in court or communicate with opposing counsel. LLLTs in Washington State can only address family law matters, such as child support, divorce, or protection orders in domestic violence

⁷⁶ "CLEAR Hotline | Northwest Justice Project."

⁷⁷ Sheldon, "Michigan Legal Help Evaluation Report."

⁷⁸ Sandefur and Clarke, "Roles beyond Lawyers: Summary, Recommendations and Research Report of an Evaluation of the New York City Court Navigators Program and Its Three Pilot Projects."

⁷⁹ McClymont, "Nonlawyer Navigators in State Courts: An Emerging Consensus" 6.

cases, though the state is considering how to expand to other issue areas like consumer debt. In addition, all states restrict the unauthorized practice of law through statutes that generally prohibit non-lawyers from dispensing “legal advice.”⁸⁰ This creates a nationwide lawyer-held monopoly over legal practice and related activities.⁸¹ More broadly, state bar associations, backed by state courts, have used unauthorized practice of law statutes and other anticompetitive regulation to challenge activities of paraprofessionals, self-help legal software publishers, and other non-lawyer providers of legal information and services, as well as lawyers’ own efforts to market their services through online networks and platforms.⁸²

Evidence of Effectiveness

The New York City Court Navigators program included three pilot projects using volunteer navigators or case workers to provide one-on-one assistance to SRLs in the city’s housing courts.⁸³ A mixed-methods evaluation of this program found positive impacts in terms of decreased evictions and increased recognition and redress in court. This evaluation also proposed a framework for the evaluation of navigator or “Roles Beyond Lawyers” programs in terms of their appropriateness, efficacy, and sustainability; this framework may be used for comparability of innovations in non-attorney-support programs.⁸⁴ In addition, a 2019 qualitative study of non-attorney navigator programs in state courts found that the programs enhance the effectiveness of and build public trust in court systems; help SRLs understand and navigate their cases and court process; and facilitate lawyers operating at the top of their licenses.⁸⁵

A preliminary evaluation of Washington’s LLLT model reported general client satisfaction and concluded that LLLTs and similar non-lawyer supports are “a potentially significant strategy for meeting the legal needs of many people who now are dealing with their legal problems unassisted.”⁸⁶ Several graduates from the first cohort of Washington LLLTs are successfully running a full-time LLLT practice. Utah has adopted the LLLT model for licensed paralegal practitioners and Oregon is considering it.⁸⁷ Finally, limited legal supports have been found to be a cost-effective alternative to lawyer representation.⁸⁸ We present this evidence not to argue for the advantages of one approach over another, but to demonstrate that there is value in a continuum of coordinated services, from non-attorney supports to full representation, and beyond.

Parallel Approaches Outside of Civil Justice: Non-Physician Providers and Health Care Navigators

The use of non-physician providers and other health professionals like navigators has been an important strategy to increase access to health care, especially for rural patients and racial/ethnic minority groups. Community Health Workers (CHWs) and other types of health care navigators often

80 Chapman, “The Legal Empowerment Movement and Its Implications.”

81 Denckla, “Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters.”

82 Chambliss, “Marketing Legal Assistance.”

83 Sandefur and Clarke, “Roles beyond Lawyers.”

84 Sandefur, “Increasing Access to Justice through Expanded ‘Roles beyond Lawyers’: Preliminary Evaluation and Classification Framework.”

85 McClymont, “Nonlawyer Navigators in State Courts.”

86 Clarke and Sandefur, “Preliminary Evaluation of the Washington State Limited License Legal Technician Program,” 3.

87 McGlone, “Can Licensed Legal Paraprofessionals Narrow the Access-to-Justice Gap?”

88 Rhode, Eaton, and Porto, “Access to Justice Through Limited Legal Assistance.”

assist in conducting follow-up visits in patients' homes, providing health promotion and education, and guiding patients through the complex health care system. CHWs increase local health knowledge and self-sufficiency through outreach, community education, informal counseling, social support, and advocacy, all of which play an important role in reducing gaps in access to care.⁸⁹ Similarly, health care systems increase primary care capacity through the use of non-physician providers like nurse practitioners (NPs), physician assistants (PAs), and certified nurse midwives (CNMs). Increasing evidence demonstrates that non-physicians are well equipped to provide patients with primary care comparable to that provided by physicians, while improving access to care that has been limited by physician shortages.⁹⁰ However, national- and state-level policies that restrict NP practice authority can negatively impact access, efficiency, quality, and cost while contributing to maldistribution of primary care providers.



Example 3: Fee-Shifting

Key informants noted the need to find models that address the issue of unaffordable legal services. Fee-shifting offers an emerging model for helping low-income litigants access legal services without the burden of cost. State statutes and rules allow for fee-shifting in attorneys' fee payments for low-income populations; this requires the losing party (plaintiff or defendant) to pay reasonable attorney fees and costs.⁹¹ The attorney is not paid in advance but rather through fee-shifting provisions if their client wins. For example, Massachusetts's fee-shifting statute allows for attorney's fees to be paid by a landlord in a landlord-tenant dispute if the landlord is found to be in violation and loses the case.⁹² While not common, fee-shifting is a promising approach to civil legal services because it gives consumers and tenants (including low- and middle-income individuals) an opportunity to get private attorneys to sue institutional actors like landlords or debt collectors, if they have meritorious claims. Fee-shifting may also allow firms to settle cases quickly, thereby increasing capacity.⁹³

A concern surrounding fee-shifting methodologies is that they may temper advocacy on behalf of low-income litigants when the likelihood of winning is not assured. In addition, they may place strain on litigants who lose their cases and struggle to pay the fees of the winning side.

Evidence of Effectiveness A survey of Alaska's attorneys that assessed perceptions of and experiences with fee-shifting found that overall, attorneys are satisfied with the fee-shifting rule because it encourages settlements and operates as intended.⁹⁴ However, many noted that the rule may disproportionately impact middle-income litigants, who are the most likely to struggle to make a payment (versus high or low-income litigants, who may not notice the payment or who cannot pay, respectively).



Example 4: Unbundling/Limited Scope Representation

While not new, the concept of unbundling legal services continues to gain traction in response to the lack of affordability of full legal representation, as well as the shortage of lawyers available to represent

89 Dorhauer et al., "Community Health Workers: Recommendations for Bridging Healthcare Gaps in Rural America."

90 Buerhaus, "Nurse Practitioners: A Solution to America's Primary Care Crisis."

91 ABA Standing Committee on the Delivery of Legal Services, "Reinventing the Practice of Law: Fee Shifting."

92 Singen et al., "Dollars and Sense: Fee Shifting."

93 Ibid.

94 Institute for Court Management ICM Fellows Program, "Attorney's Fee Shifting: Perceptions on Its Impact in Alaska."

low-income litigants. Unbundling, or limited scope representation, refers to a model in which a lawyer assists a litigant for a discrete legal task rather than performing the full range of services that traditionally falls under legal representation.⁹⁵ It includes “providing brief advice, drafting letters and complaints, helping complete forms, making telephone calls, or some combination of these.”⁹⁶ Unbundled services are the main form of legal assistance offered by legal aid offices today.

For example, some courts have amended their rules to authorize and encourage the use of unbundled legal services for SRLs. In October 2018, the Supreme Court of Virginia amended its Rule 1.5 to allow lawyers employed by legal aid, and pro bono attorneys acting on a referral from a qualified legal services provider, to file notices of limited scope appearance for part of a pending litigation, with a right to withdraw once they have completed the limited scope representation. In 2017, the Arkansas Supreme Court changed the Rules of Professional Conduct and Rules of Civil Procedure to promote unbundled services and lend them more transparency. The change includes authorizing the use of ghostwriting, where a lawyer can prepare pleadings for a client without representing them in court.⁹⁷

Approaches to unbundling include firms that offer 100 percent unbundled legal services and referral services networks that connect lawyers and litigants interested in unbundled legal services. In Iowa, the Law Shop leverages technology to bring unbundled legal services to rural areas. The Minnesota Unbundled Law Project, a pilot project launched in 2018, functions as a referral service. In Illinois, the Chicago Bar Foundation and its Justice Entrepreneurs Project and other partners released the Limited Scope Representation Toolkit, which includes rules, forms, checklists, and a sample engagement letter. The intent is to help Illinois lawyers understand the rules regarding unbundling and how to make it a part of their practice.⁹⁸

Evidence of Effectiveness

Some studies have shown increased satisfaction with limited services compared with no assistance, but no discernable impact in terms of outcomes of cases for those receiving limited services compared with those who have not.⁹⁹ Other studies comparing unbundled services with full representation in eviction cases in Massachusetts had mixed results. One study of a district court found that litigants who has full representation fared better than those with limited services, whereas another study in housing court found that full representation did not affect the outcome of the case.¹⁰⁰ A study reviewing the literature on unbundling found it had limited effects and may not benefit all assisted litigants in all circumstances.¹⁰¹ Further research is needed to better understand the impact of limited legal assistance on a broad range of issues.

95 Steinberg, “In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services.”

96 Rhode, Eaton, and Porto, “Access to Justice through Limited Legal Assistance.”

97 Cavicchia, “Unbundled Legal Services: Some Recent Developments across the Country.”

98 Ibid.

99 Rhode, Eaton, and Porto, “Access to Justice.”

100 Rhode, Eaton, and Porto; Greiner, Pattanayak, and Hennessy, “The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future”; Greiner, Pattanayak, and Hennessy, “How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court.”

101 Steinberg, “In Pursuit of Justice?”

Opportunities for Improvement

In addition to describing approaches and models to increase coordination within civil justice systems, key informants offered other recommendations to reduce siloes. They highlighted a need for:

- **Policies related to the unauthorized practice of law** such as, they noted the importance of easing restrictions on the unauthorized practice of law as a way to encourage and scale models of assistance that involve non-lawyer staff supports. Rules around the unauthorized practice of law may achieve their intended purpose of protecting consumers from unscrupulous, unlicensed practitioners. but, in practice such rules may limit people from accessing suitable and capable legal help. Easing restrictions such rules can help open the civil justice system to greater participation by non-lawyers who can support SRLs in navigating the system.
- **Simplifying legal processes and system**, including the use of accessible or plain language and standardized forms across courts within a state.
- **Integrating civil legal, health, and other social service providers**, as well as other key stakeholders to share information and work together along the continuum of services. This helps better triage individuals' needs and refer them to the appropriate services. This also ensures that regardless of where and how an individual first seeks assistance, they will be directed to the needed resources.¹⁰²
- **Integrating of criminal and civil justice to advance the no-wrong door approach to justice reform** acknowledges that the criminal and civil justice systems overlap, particularly for low-income individuals who may bounce back and forth between both systems, as outcomes in one affect their interaction with the other. Integration presents individuals with a more unified way to interact within and across systems and can help justice system reformers work as allies rather than as competitors for limited resources.¹⁰³



¹⁰² Sudeall, "Integrating the Access to Justice Movement."

¹⁰³ Udell, "Building the Access to Justice Movement."



| Principle Four: Technologically-Enhanced |

Many key informants described technology as having the potential to enhance the capabilities of people, lawyers, courts, policymakers, and other stakeholders to improve access and equity in civil justice. They expressed hope that technology would do so by helping address inefficiencies stemming from the high volume of people seeking legal assistance and resolution through courts. Most acknowledged that technology may fulfill, at least in part, the democratic promise that law be accessible to everyone by increasing and equalizing access to services. A key informant emphasized the importance of prioritizing access to justice and due process at the same level as efficiency and profit-making, in order to ensure that people have a right to recourse and the ability to contest and correct information used to make an automated data-driven decision. Another informant noted that the civil legal aid community is concerned that technology will replace legal aid, which could cause large-scale problems, particularly regarding inaccuracy in decision making, invasion of privacy, lack of transparency, hidden biases, and the risk of misinformation.

Furthermore, one informant emphasized concerns regarding poor handoffs between technology and individuals, including sending people to wrong locations, and reduced accountability. Key informants noted that the legal aid community and the courts are particularly concerned about errors in the use of technology: they can increase efficiency by arriving at the correct decision most of the time, but will make mistakes at some point.



Example 1: Digital Self-Help Tools and Resources

Effective self-help tools guide SRLs through their legal proceedings. Digital self-help tools are available to help individuals with legal tasks and have the potential to help overcome financial, psychological, informational, and physical barriers to civil justice.¹⁰⁴ Mobile applications (apps) can provide assistance ranging from general legal information to help with completing legal processes (e.g., Floodproof¹⁰⁵ and WeVorce¹⁰⁶).¹⁰⁷ Online guided forms walk users through the process of filing legal documents (e.g., A2J Author¹⁰⁸ and Docassemble¹⁰⁹). Do-it-yourself online solutions help individuals navigate a particular legal issue without the help of an attorney (e.g., JustFix.nyc¹¹⁰ and Legal Zoom¹¹¹). In addition, attorneys commonly use document assembly tools in legal services organizations, which helps the organizations save time and helps attorneys handle more cases per year. LawHelp Interactive is an online, guided interview and document assembly tool that helps users nationwide create their own legal documents for free. It has helped create over 5 million legal documents since 2005 in the areas of child support and custody, domestic violence, debt collection, foreclosure, and more.¹¹² In addition, remote self-help services like telephone and internet-based technologies (e.g., email, chat, text) can assist SRLs in rural areas where limited mobility, lack of transportation, and other factors may impede in-person access.

¹⁰⁴ McGill et al., "Emerging Technological Solutions to Access to Justice Problems: Opportunities and Risks of Mobile and Web-Based Apps: Knowledge Synthesis Report."

¹⁰⁵ Legal Design Lab, "Flood Proof: Post-Disaster Relief Legal Help App | Legal Design Lab."

¹⁰⁶ WeVorce, "The Premier Self-Guided Divorce Solution."

¹⁰⁷ Sandefur, "Legal Tech for Non-Lawyers: Report of the Survey of US Legal Technologies."

¹⁰⁸ Access to Justice Author (A2J Author®), "Welcome to A2J Author."

¹⁰⁹ Docassemble, "Docassemble."

¹¹⁰ JustFix.Nyc.

¹¹¹ legalzoom, "Where Life Meets Legal. How Can We Help?"

¹¹² Johnson, "Document Assembly: An Essential Building Block for the Access to Justice Ecosystem."

Evidence of Effectiveness Limited research exists on the effectiveness of digital tools. SRLN^{113,114} notes that remote delivery of legal services via the telephone or internet is an effective means of providing services. Remote services are often expected or preferred by large majorities of SRLs; result in time, convenience, and cost savings for both litigants and organizations; and offer alternatives for rural populations, those with mobility and transportation challenges, and those with limited English proficiency, among other benefits. Key informants in our assessment called for more information regarding the effectiveness of digital tools and their usage by targeted beneficiaries. Informants noted that digital tools could potentially perpetuate existing barriers to justice by relying on inherent, unrealistic assumptions about smartphone usage, internet access, literacy, and computer skills required to use legal digital tools. They acknowledge that self-help technologies can play a useful role in assisting low- and moderate-income people, but recognized that in order to reach people from marginalized groups, they need to supplement technologies with other strategies.¹¹⁵

Parallel Approaches Outside of Civil Justice: Health IT and Telehealth

Emerging health technologies, such as electronic health records (EHRs), wearable sensors and portable diagnostic equipment, data-driven software platforms, telehealth, and mobile health care apps, are used to enhance routine medical care and increase access to care.¹¹⁶ The adoption of health IT in the United States has accelerated, with advances in collecting and using health information to improve and monitor quality and efficiency in health care, and using technology to reach patients where they are. For example, EHRs, personal health records (PHRs), and patient portals can enhance communication by making information and results available to patients, providing secure messaging, facilitating medication refills, and coordinating appointments and billing.¹¹⁷ Telehealth enhances primary care capacity by allowing communications across providers and with patients' follow up, treatment implementation, and patient education, without in-person visits. The adoption of technologies in health care have been bolstered by changes in policies that increase funding for and payer coverage of their use. However, challenges remain, including the need for training and technical assistance among providers and patients on using the systems; cost; culture change; disruption in care processes; workflow; and established practices, and competing priorities for practice improvement.¹¹⁸ In addition, state variations in privacy and consent laws, as well restrictions on coverage of telehealth, impact the use of health technologies.



Example 2: Integrating Online Tools and Attorney Supports

Key informants described approaches that use technology and automation¹¹⁹ to free up lawyers' time for a greater range of legal tasks, rather than entirely replace the need for lawyers. Any departure from the full

113 Greacen, "Serving Self-Represented Litigants Remotely: A Resource Guide."

114 Marz, "Courts Effectively Deliver Remote Self-Help Services."

115 Rostain, "Techno-Optimism and Access to the Legal System."

116 Hostetter, Klein, and McCarthy, "The Digital Health Revolution."

117 Young and Nesbitt, "Increasing the Capacity of Primary Care Through Enabling Technology."

118 Ibid.

119 Automation is logic that guides people through a path based on facts. Artificial intelligence is "a system's ability to correctly interpret external data, to learn from such data, and to use those learnings to achieve specific goals and tasks through flexible adaptation." Kaplan et al. "Siri, Siri, in My Hand: Who's the Fairest in the Land? On the Interpretations, Illustrations, and Implications of Artificial Intelligence."

attorney representation model can create perceptions among people that they are not receiving complete justice.¹²⁰ However, technology-based tools that integrate attorney review can increase cost-effectiveness, minimize attorney time on intake procedures, and engender trust among users.

For example, Upsolve is a legal aid nonprofit committed to assisting low-income people in financial distress to file for Chapter 7 bankruptcy. Informants reported that Upsolve uses technology and human assistance efficiently, allowing anyone to go online, sign up, and get free help by completing a guided interview. Then, users review the case and file forms with a bankruptcy attorney, attend a short financial literacy lesson, and prepare to meet with a bankruptcy trustee. Upsolve aims to provide a seamless integration of online guided forms and attorney help, using an iterative process to revise its product. Upsolve seeks to automate processes that need human review, so that the technology becomes smarter and the process involving attorneys becomes more efficient. In this way, Upsolve is expected to serve more people and drive down the cost per discharge.

Key informants noted that technology has been instrumental in helping domestic violence survivors avoid retraumatization by reducing the time they need to complete the forms required for protective orders. Legal Aid Services of Oklahoma and LawHelp Interactive developed an online tool using guided forms that give survivors the opportunity to tell their story as they want to tell it, and reduces the number of times they have to recount the incident or write out the perpetrator's name.¹²¹

However, several barriers impede the use of integrated technologies to improve access to justice. There is limited uniformity in forms and procedures across the country, and most states require local courts to accept state-created forms.¹²² In addition, integrated technologies continue to be inaccessible to people with limited internet access or literacy levels.¹²³ There is also a growing concern within the field that expanding automation could increase existing biases and perpetuate inequality within the justice system.

Evidence of Effectiveness By devoting resources to technology and continuous process improvement, Upsolve was able to transition from helping eight users per month to file petitions (which was the average between June 2016 and December 2018) to helping 277 users per month (June 2019). From the beginning of 2018 to August 2019, Upsolve was able to help 2,000 users. Upsolve has achieved this growth in debtor filings without increasing the number of staff members who review users' petitions. Thus, there has been a steady and dramatic decrease in the per-discharge cost of providing this service to Upsolve users.¹²⁴



Example 3: Online Dispute Resolution

Online dispute resolution (ODR) is a digital technology tool that enables remote and non-parallel dispute resolution through information and communication technology. It primarily involves negotiation, mediation, or arbitration. A substantial portion of the dispute resolution procedure, including the initial filing, neutral appointment, evidentiary processes, oral hearings, etc., are conducted online. Developed in the private sector to help resolve disputes between consumers and online retailers, ODR

120 Cabral et al., "Using Technology to Enhance Access to Justice."

121 Lam, "Why Trauma-Informed Technology Matters for Domestic Violence Survivors."

122 Cabral et al., "Using Technology."

123 Rostain, "Techno-Optimism and Access to the Legal System."

124 Philadelphia Legal Assistance and Legal Services Corporation, "TIG Final Evaluation Report."

has the potential to increase access to civil legal services.¹²⁵ ODR systems may facilitate an array of functions such as triage, document sharing and management, document creation, mediation, and arbitration. For example, a fact sheet produced by The Pew Charitable Trusts notes, “[A]lthough ODR is not appropriate for every legal issue, it has promise for high-volume cases involving transactional disputes, such as traffic offenses, small claims, and low-conflict family court cases.”¹²⁶

ODR may be affiliated with courts or operate in the private sector as an alternative to courts. Examples of private sector ODRs include Smartsettle, a blind bidding platform in which parties submit offers for settlement to a central system for negotiation and bargaining process;¹²⁷ SquareTrade, a platform for resolving warranty, delivery, and other disputes in commercial transactions online;¹²⁸ and the eBay ODR program, an online shuttle mediation program where the mediator interacts with each party individually and then presents a synopsis of the problem and solicits reactions, leaving it to the parties to choose a resolution.¹²⁹

While a full account of the benefits and challenges of court-based and private sector ODR are beyond the scope of this paper, we identified some criticism of ODR from key informants and the literature. ODR systems often require parties to describe their claims in fixed categories rather than using regular language and concepts.¹³⁰ This forces the parties to adjust to the dispute resolution system rather than the other way around; as a result the format does not always permit individuals to describe their entire situation or respond to claims in a satisfactory manner. Additionally, text-based ODR often has word limitations and is not conducive to in-depth conversation, which may result in fragmented discussions that cause confusion and misunderstanding between parties. There are yet other concerns that ODR could exacerbate power imbalances between the parties, especially for low-income populations.

Key informants varied in their interest in and support for ODR. One informant from courts expressed enthusiasm, while another who was engaged in research noted strong concerns around consumer interest in interaction with such technology for justice problems. Several recommended using complementary approaches, such as providing ODR tools to non-legal and community-based professionals who can act as intermediaries between disadvantaged people and the legal system. Another key informant was concerned that ODR could harm the vulnerable section of the population and noted that it is essential that the legal aid community is involved and enthusiastic about ODR before it is promoted as a feasible option.

Evidence of Effectiveness

In addition to the public benefit of increased access to legal advice and services through ODR, courts have reported collateral benefits such as lowered administrative costs and decreased case-processing time.¹³¹ In Franklin County, Ohio, the Municipal Court Small Claims Division and Dispute Resolution Department launched an ODR initiative where parties can send messages and files, make and accept offers, and sign agreements. ODR helps resolve civil disputes related to city tax issues, small claims, credit card debt, landlord-tenant issues, and other disputes

125 The Pew Charitable Trusts, “Online Dispute Resolution Offers a New Way to Access Local Courts.”

126 Ibid.

127 “SmartSettle.”

128 “SquareTrade.”

129 Condlin, “Online Dispute Resolution: Stinky, Repugnant, or Drab.”

130 Ibid.

131 Joint Technology Committee, “JTC Resource Bulletin - Case Studies in ODR for Courts: A View from the Front Lines Document History and Version Control.”

under \$6,000.¹³² In the first year of implementation, about 78 percent of city tax cases handled through ODR were resolved. Ottawa County, Michigan, piloted the family court compliance ODR system that provides automated notifications to help parents comply with court orders. In the first year of implementation, hearings decreased by 27 percent, and the number of failure-to-appear arrest warrants were reduced by 36 percent.¹³³ Further research is needed on the best practices for ODR implementation and evidence of impact, including measures such as costs and benefits; access (e.g., case filing and completion rates) and fairness (i.e., comparing case outcomes using ODR versus traditional court services, and consumer perceptions of the fairness of ODR).¹³⁴

Opportunities for Improvement

Key informants cautiously considered technology as instrumental in facilitating a modern civil justice system. Therefore, they emphasized finding ways that consider the effects of technological systems on the end-users, particularly disenfranchised populations. Informants offered the following recommendations about using technology to increase access to justice:

- **Incorporating end-users in the process of developing and integrating technology with other approaches to civil justice** to ensure technologies fit within the larger ecosystem of civil justice, versus completely replacing human processes. The use of technology is founded on strong assumptions regarding cultural, material, and educational access. The civil justice system must ensure that technology does not leave a whole swath of the population with only one means of access.
- A single **National Legal Access Portal** to ensure a shared point of entry for all family law matters. This system could provide information based on an individual's location, explain the family law in the particular state, and offer advice about potential solutions to their problem. While this could be a difficult and large endeavor, open source software is capable of handling that level of complexity in a single product and would allow multiple people to work together to develop sustainable applications that can evolve as needs change. A key informant warned that national portals need to be inclusive and ensure due process and transparency to prevent technology from harming communities of color and the poor.
- Providing **technology for intermediaries**, such as social workers or community-based organizations, including digital tools that can address issues such as limited access to the internet and technology and limited literacy skills. Intermediaries can use these tools to provide information, ask the right questions, and record relevant information.



132 Joint Technology Committee.

133 Ibid.

134 The Pew Charitable Trusts, "Online Dispute Resolution Offers a New Way to Access Local Courts."



| Principle Five: Data-Driven |

Lack of data or evidence of the effectiveness of data-driven interventions was one of the most common gaps identified by key informants. Further, several stated that they had trouble accessing basic descriptive data in certain jurisdictions and that some state courts do not use comprehensive data collection systems.

Instead, key informants envisioned a future justice system guided by data—on both consumer needs and preferences and outcomes of available or proposed innovations. They described a system in which data provide a baseline understanding of the problem before an intervention is introduced and are available to demonstrate impact in evaluations. Existing innovative approaches related to this principle are limited. Nevertheless, key informants described a few emerging examples of data being used to advance civil justice.



Example 1: Evidence-Based Interventions and Trials

Informants highlighted a need for evidence-based interventions and trials that compare civil justice approaches with each other and with the status quo to assess effectiveness of existing and emerging approaches to achieving justice for all. In one example, researchers at Harvard’s Access to Justice (A2J) Lab are using data to better understand and address the access to justice gap. The goal of the A2J Lab is to use scientific approaches to studying the effectiveness of interventions.

One A2J project seeks to understand legal needs stemming from financial distress.¹³⁵ As of 2014, approximately 35 percent of adults in the United States had at least one report of debt “in collection,” owing an average of \$5,178.¹³⁶ Distressed debt often results in civil legal issues due to collection lawsuits and potential need for bankruptcy. According to the A2J Lab, there are numerous ways to combat financial distress, including legal representation, financial counseling, and self-help efforts. Yet, there is limited evidence regarding which strategies are most effective. To address this gap, the Financial Distress Research Project (FDRP) at the A2J lab is conducting a randomized control trial to generate evidence regarding the most effective and appropriate intervention(s) to help individuals recover from distressed debt.¹³⁷ The study began by collecting data through courtroom observations, interviews, and other research, and using this data to develop a self-help packet intended to teach consumers in financial distress how to:

- 1) litigate a debt collection action; 2) pull, review, and correct errors in a credit report; 3) self-diagnose on whether bankruptcy or negotiation with other creditors is the right option; 4) negotiate with other creditors (with specific materials tailored to credit card, medical, and public/private student loan debt); and 5) file a successful Chapter 7 bankruptcy (including attempting to discharge student loans in bankruptcy).¹³⁸

With this evidence-based assistance packet at the core of its intervention design, the FDRP study is recruiting individuals who have been sued in debt collection proceedings and randomizing them to receive one of four interventions: 1) legal and financial self-help; 2) legal self-help and professional

¹³⁵ Access to Justice Lab at Harvard Law School, “Financial Distress Research Project.”

¹³⁶ Ratcliffe et al., “Delinquent Debt in America.”

¹³⁷ Access to Justice Lab at Harvard Law School.

¹³⁸ Ibid.

financial counseling; 3) professional legal help and self-help financial counseling; or, 4) professional legal and financial help. The study will collect credit scores and credit report attributes along with participant surveys to determine financial health and well-being outcomes by intervention. The study will create the first-ever systematically collected data on strategies to combat financial distress.

Another A2J project, the Debt Collection Default Study, was the first to examine whether mailings from legal services providers are effective in reducing default rates among defendants in debt collection cases. The study sent defendants mailings urging them to contest their cases and to provide materials useful for defense. This study found that the mailings roughly doubled the rate of defendant participation in lawsuits, relative to controls who received no mailings.¹³⁹ The A2J lab is building on these results with a second, similarly structured study, intended to explore what aspects of the mailings (such as envelope appearance or the mailing's contents) are necessary and cost effective to reduce default rates.



Example 2: Aggregating Data and Evidence for Public Use

While a full catalog of data-driven civil legal approaches is beyond the scope of this assessment, key informants described many efforts to aggregate and disseminate existing evidence on civil legal approaches. The following toolkits, databases, and research programs are intended to help spread data-driven and evidence-based approaches to expand access to justice to legal aid organizations and policymakers at local, state, and federal levels.

The Justice in Government Project Toolkit showcases the evidence-base for using legal aid to advance specific policy and program goals. In addition, it offers information about identifying sources of executive branch funding for legal aid and examples of states that have incorporated legal aid into already appropriated federal pass-through funding. The producers of this toolkit vet featured research for independence and rigor.

American Bar Foundation's Access to Justice Research Initiative seeks to "produce rigorous knowledge that helps us to think about ways to make things more just and equal in the civil justice space." With funding from the National Science Foundation, the American Bar Foundation's (ABF) initiative completed a needs assessment and will fund the participation of researchers working on about 25 projects from multiple disciplines, including psychology, economics, sociology, political science, law, and criminal justice. The initiative will offer a workshop designed to enrich both the scholarly contributions and the practical impact of the participants' research, as it seeks to foster interdisciplinary research that yields both an evidence base for policymakers and builds careers for academics.

The Justice Index is a project of the National Center for Access to Justice at Fordham Law School. It compiles selected policies for assuring access to justice to underserved and marginalized individuals in state justice systems. The Index aligns with the Chief Judges 2015 Resolution to assure meaningful access to justice for all and with states that have active Justice for All initiatives.¹⁴⁰ It is among the few sources that identify policies that reformers can focus on instituting and scaling in all states. The Justice Index indicates the states in which the selected policies are already present or absent, and uses a ranking system to describe the progress of states relative to one another in adopting best policies.

¹³⁹ The Access to Justice Lab, "The Problem of Default."

¹⁴⁰ Conference of Chief Justices and Conference of State Court Administrators. "Resolution 5."

Four types of metrics or policies are highlighted: 1) the number of civil legal aid lawyers that should be present in each state relative to the number of low-income people in the state, 2) policies to assure access to justice for people with limited English proficiency, 3) policies to assist people with disabilities, and 4) policies to assist people without a lawyer.¹⁴¹ In addition, the Justice Index also functions as a tool for researchers engaged in evaluation

and offers an opportunity to clearly identify those policies that are supported by evaluative research and those that have not yet been evaluated.

LegalAidResearch.org, which was developed by the National Legal Aid & Defender Association, offers a web-based search engine for civil legal aid research. Searches may be filtered by LSC case types, population served, how services are provided, practice areas, topics, and geography. Resources are also grouped by the target audiences of researchers and academics, policymakers and funders, legal aid practitioners, and the media.

Opportunities for Improvement

Informants identified specific opportunities to increase the use of data and evidence within the civil justice system. They highlighted a need for:

- **Evaluations, including those that assess outcomes for systems and technology**, that use different methodologies, including outcomes research, randomized control trials, and system-wide evaluations of interventions. Key informants noted that each of these different methodologies could provide stakeholders with the information they need to identify next steps.
- **More funding directed towards evaluation and research** to better understand when and how legal aid adds value, and to guide legal aid programs. Informants also recognized the need for more research to analyze the economic benefits that result from investing in legal services.
- **More data repositories and consistent data sharing** and the assurance of courts and legal aid groups that it is safe to share their data with researchers or public interest technologists, in order to create diverse and abundant datasets.
- **Setting standards for data-related research** within the field, including model contract provisions, partnering with vendors, setting up licensing, and establishing privacy agreements. With this infrastructure, researchers will be able to create data projects and have the projects interact with each other.
- **Investment in leaders who can harness big data**, suggested a fellowship for developing data-generated theories of change, writing algorithms and forming intervention strategies, beyond opportunities supported by the ABF's Access to Justice Research Initiative. The informant recommended an iterative process where the fellows would use big data to assess and improve their strategies to increase access to justice.



¹⁴¹ Justice Index, justiceindex.org. See also, Introduction to the Justice Index (May 1, 2019) available on ncforaj.org, at <https://ncforaj.org/wp-content/uploads/2019/05/Introduction-to-the-Justice-Index-5-1-19.pdf>.

| Modeling Approaches to High-Resonance Issues |

Our key informants identified promising civil justice approaches focused on a number of high-resonance issues. In fact, many movements are dedicated to issues such as human rights; disability rights; language rights; immigrant rights; women’s rights; lesbian; gay; bisexual; transgender; and queer or questioning (LGBTQ) rights; rights of those who experience domestic violence and sexual assault, and environmental justice rights. We focus here on broad issues that key informants raised repeatedly, and offer examples of current approaches to bring about related systemic and transformative changes. The approaches we present are illustrative rather than exhaustive.

We draw on interview findings and the literature to explore how particular issues may be addressed through multilayered approaches. The systems changes relate to the areas of:

- **Economic Well-Being: Sealing of Criminal Records**
- **Racial Equity: Fines and Fees**
- **Housing: Right to Counsel on Evictions**
- **Health: Medical-Legal Partnerships**

Although issues related to housing and health may be byproducts of larger racial and economic inequities in the United States, they feature among issues most often cited in efforts to modernize civil justice approaches. Further, the issues described here highlight connections between civil justice and criminal justice systems and speak to calls for reform in both systems or the justice system at large.¹⁴²

We present these issues within our systems of change framework for achieving a modern civil justice system, highlighting how efforts within the six conditions of systems change—structural (i.e., policies, practices, resource flows); relational (i.e., relationships and connections, power dynamics); and transformative (i.e., mental models)—contribute to addressing each high-resonance issue.¹⁴³

¹⁴² Sudeall, “Integrating the Access to Justice Movement.”

¹⁴³ Kania, Kramer, and Senge, “The Water of Systems Change.”



| Economic Well-Being: Sealing of Criminal Records |

The foundation of civil legal aid for low-income people in the United States has been the premise that legal assistance could help alleviate conditions associated with poverty.¹⁴⁴ Though the origins of organizations like LSC and local legal aid may stem from the “War on Poverty,” not all key informants shared the opinion that legal aid is still an instrument for poverty eradication. Yet, they were sensitive to the fact that legal issues entrench or exacerbate poverty. Criminal records are among the many issues that make it challenging for formerly incarcerated people to get jobs and achieve economic well-being. Mass incarceration in the United States has made criminal records a common and systemic barrier to employment:

Following decades of over-criminalization in the United States, between 70 million and 100 million—or 1 in 3—Americans now have some type of criminal record. In the digital era, with nearly 9 in 10 employers now using criminal background checks, any criminal record—no matter how old or minor—can be a life sentence to poverty.¹⁴⁵

A 2014 study titled “One Strike and You’re Out” found that even minor criminal offenses leave those accused at high risk of joblessness and poverty, because these offenses are discovered through employer background checks.¹⁴⁶



Practice: Automated sealing of criminal records, a civil process, uses algorithms to seal records and prevents dissemination of their contents to everyone except authorized users, such as law enforcement. It is based on the idea that the technology used to create records can be used to seal them as well. Records sealing may or may not be different from another civil process called expungement, depending upon the state.¹⁴⁷ While automated sealing may be used for numerous purposes, it has most recently received attention for its use in sealing criminal records. Research found that people who have their criminal records expunged see their wages increase by more than 20 percent, on average. However, most people do not get expungements because they find it hard to navigate the complex legal process.¹⁴⁸ Automated sealing does not require an individual to file a petition in order to seal their records; instead, this process occurs automatically if the individual meets certain criteria.



Policy: The Clean Slate Act was enacted in Pennsylvania in 2018.¹⁴⁹ The automation process devised by the law begins with courts running a query to identify potentially eligible cases. That list is then sent to the state police, who validate eligible cases. Once the cases are validated, the courts remove the sealed cases from the public dockets, prohibit dissemination, and flag cases that are required to be removed from privately maintained databases for commercial background checks. All charges ending without conviction are sealed shortly after disposition.¹⁵⁰ The Clean Slate Act allows for automated sealing using

144 Houseman and Perle, “Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States.”

145 “CZI Joins More Than 25 Partners Launch National Bipartisan ‘Clean Slate’ Initiative to Automate Clearing of Criminal Records.”

146 Vallas and Dietrich, “One Strike and You’re Out.”

147 According to one key informant, the exact range and limits of the terms “sealing” and “expungement” vary by state, so that one state’s sealing may be the equivalent to another state’s expungement. In Pennsylvania, expungement means the physical destruction of the records.

148 Prescott and Starr, “Expungement of Criminal Convictions: An Empirical Study.”

149 Dietrich, “Clean Slate Brings Automated and Expanded Criminal Record Sealing to Pennsylvania.”

150 Dietrich, “Get Ready, Get Set: Pennsylvania Prepares for Clean Slate Implementation.”

algorithms as opposed to expunging or sealing cases one-by-one with filing, adjudication, and processing of petitions. This policy creates efficiency and reduces the burden on the legal system by proactively and automatically sealing individuals' criminal records if they meet certain criteria rather than waiting for an individual to file a petition. Automated record sealing in Pennsylvania began on June 28, 2019, and the state estimates that ultimately 31 million records will be sealed, beginning with new cases and then rolling out systematically through backlogs and other cases.



Relationships and connections: Clean Slate began as a policy concept developed by Community Legal Services of Philadelphia and became a full-scale advocacy campaign through the interest of the Center for American Progress Justice Action Network (JAN). JAN is a bipartisan national coalition that advocates for criminal justice reform. A key informant explained:

JAN did two things...in Pennsylvania. They brought conservative credibility in [the] General Assembly, which...[wouldn't exist] otherwise...this issue...was seen as a liberal, fringe initiative. But JAN has conservative groups as part of it...them saying that this was a good idea...[was] able to attract conservative prime sponsors. The second thing JAN did was provide resources...especially in their provision of a lobbyist...The lobbyist lined up a lead [Republican] sponsor.

Celebrity athletes lobbied a prime sponsor and Clean Slate ultimately received bipartisan support in Pennsylvania's state legislature.¹⁵¹



Mental models: Several decades of advocacy for federal criminal justice reform have brought about bipartisan support for and passage of a federal prison reform bill, the First Step Act (2018), and public opinion is considered to be rapidly moving toward reform.¹⁵² This shift in public opinion may be attributed to diverse efforts that included conservatives and the voices of the formerly incarcerated speaking about the need for second chances. As a result:

Criminal justice reform organizations are better funded, more prolific, and more politically diverse than ever before. Because this community has kept criminal justice reform in the public eye, Congress has more political cover to pass reforms. More Americans are becoming aware that the United States criminal justice system currently incarcerates more than two million people, that it's fundamentally unfair and ineffective, and that its social costs are unsustainable.¹⁵³

Pennsylvania's Clean Slate, a civil legal approach that built upon the technological advancement of automated criminal records sealing, also built on the narrative changes developed around criminal justice reform, and the importance of having a second chance at employment and economic well-being.

151 Deitrich and Vallas, "The Left, the Right, and the Football Players: How Clean Slate Automated Sealing Was Passed in Pennsylvania."

152 Hopwood, "The Effort to Reform the Federal Criminal Justice System."

153 Hopwood, 796.



| Racial Equity: Fines and Fees |

Many informants described the pursuit of racial equity as central to their work. They described efforts to address systemic biases that perpetuate racial and ethnic disparities on numerous issues, from housing and employment to child support and living conditions in prisons. As an issue-specific approach, reforms around fines and fees highlight the intersection of criminal and civil justice systems and pursuit of racial equity.



Policies: In 2017, the National Center for State Courts (NCSC) recognized a trend to address racial biases present in the administration of court fees and fines attached to criminal convictions.¹⁵⁴ Fines and fees are used to fund court operations and may be enforced through actions such as driver's license suspension and imprisonment. Court debts accumulated by low-income, formerly incarcerated people trap them in a cycle of poverty and make it difficult for them to reintegrate into their communities. The fines and fees reform movement was evident in the U.S. Department of Justice (DOJ) investigation into the police department in Ferguson, Missouri, following the police killing of 18-year-old Michael Brown.¹⁵⁵ In 2015, the DOJ issued a report that found the Ferguson Police Department and the city's court discriminated against African Americans in its patterns and practices surrounding traffic stops, use of force, and jail sentences related to fines and fees.¹⁵⁶ It also found that both the police department and courts relied on the fines and fees to generate revenue. On April 19, 2016, the federal government and the city reached an agreement on remediation to curb police abuses.¹⁵⁷

A key informant described a similar movement to address fines, fees, and imprisonment related to the civil issue of child support payments. Research shows that "child support enforcement can hurt black, low-income, noncustodial fathers and their kids."¹⁵⁸ Low-income, noncustodial fathers are more likely to be black and face discrimination in seeking employment. Child support orders may be set at rates they cannot pay, and enforcement of these orders may make paying child support more difficult. Courts may try to garnish wages, intercept tax returns, place liens on parents' assets, suspend driver's licenses, and deny other professional licenses. Enforcement may also lead to incarceration, where child support debts and fines may increase, and cause other harms to the individual and his or her family.¹⁵⁹

Attempts to enforce child support policies can worsen the challenges low-income, noncustodial fathers face in paying child support in the first place. The following policies and resources direct courts to more fully consider non-custodial fathers' circumstances when determining child support payments and enforcement:

- The Supreme Court ruling *Turner v. Rogers* found that parents facing civil trial without a lawyer for failure to pay child support must be given procedural safeguards before the court can imprison them. Safeguards include determination of whether the parent can, in fact, pay the child support.¹⁶⁰

154 Schwartztol, "Trends in State Courts: The Role of Courts in Eliminating the Racial Impact of Criminal Justice Debt."

155 Schwartztol; Foster, "Building a Movement: The Lessons of Fines and Fees."

156 United States Department of Justice Civil Rights Division, "Investigation of the Ferguson Police Department United States Department of Justice."

157 Steward and Reilly, "Judge Signs Off On Deal to Make Ferguson Curb Police Abuses."

158 Pratt, "Child Support Enforcement Can Hurt Black, Low-Income, Noncustodial Fathers and Their Kids."

159 Ibid.

160 Diller, "Turner v. Rogers: What the Court Did and Didn't Say."

The trial did not authorize parents facing prison sentences for failure to pay child support the right to receive legal counsel, as is common in criminal courts.

- The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, a rule by the Centers for Medicare & Medicaid Services (CMS) and the Administration for Children and Families (ACF), went into effect on January 20, 2017. It responded to *Executive Order 13563: Improving Regulation and Regulatory Review*, which was intended to improve child support collection rates by making them reflect noncustodial parents' ability to pay.
- The National Conference of State Legislatures' Child Support and Family Law Legislation Database¹⁶¹ shares changes in state laws, including child support enforcements and resources for policy reform.

In addition to these policy changes and resources, there are ongoing campaigns to address biased child support policies. In California, a coalition that includes the San Francisco Office of the Treasurer and the Insight Center for Community Economic Development seeks to end the practice of using parents' child support payments to pay back the state government for their children's use of public benefits and charging interest for late payments for this debt.¹⁶² They have found that requiring repayment of public benefits disproportionately affects families of color. Two bills are currently proposed to change California child support laws so that 100 percent of a parent's child support would go to the child, not to pay back public benefits, and to end the 10 percent interest rate on public-assistance debt.¹⁶³



Relationships and connections and power dynamics: Among those seeking reforms of government-imposed fines and fees, Lisa Foster, co-director of the Fines and Fees Justice Center, argues that conditions in Ferguson, Missouri, tragically but effectively developed relationships and connections that shifted power dynamics away from the local police department and toward the community and the federal government, in order to achieve change.¹⁶⁴ She explains:

Something horrible happened [police killing of Michael Brown], the community protested loudly and forcefully, and a credible source validated and explained their outrage [DOJ report]...Advocates and activists seized the opportunity that Ferguson provided. We worked with and engaged affected communities and centered our work around what harms people most. And, critically, we coalesced around both the specific targets of immediate advocacy—debtors' prisons and driver's license suspensions—and a longer-term goal—eliminating fees and making fines proportionate to the offense and the individual. Litigation was filed; bills were lobbied; court rules were changed; conferences were held; funders were engaged.¹⁶⁵

Foster offers this as a model for those seeking systems change in the civil justice community. Within the field of civil justice (including those in our sample), many are actively seeking racial justice through approaches targeted at relationships and connections as well as power dynamics. For example, Movement Law Lab has developed a fellowship program to combine law and community

¹⁶¹ National Conference on State Legislatures, "Child Support and Family Law Legislation Database."

¹⁶² "The Payback Problem."

¹⁶³ Stuhldreher, "Why Child Support in California Isn't Going Where It's Needed Most."

¹⁶⁴ Foster, "Building a Movement: The Lessons of Fines and Fees."

¹⁶⁵ Ibid., 177.

organizing, and a directory of innovative legal organizations led by black and brown lawyers.¹⁶⁶ In addition, the Shriver Center’s Racial Justice Institute developed a 6 month program where approximately 40 participants a year from around the country focus intensely on racial equity.¹⁶⁷ The training includes readings, online activities, webinars, and conference calls during the first month, capped by a weeklong in-person retreat. In the remaining five months, participants work on an equity project back at home, with support from coaches. Following completion of the program, Racial Justice Institute participants join a network of over 250 advocates working on race equity issues across the country.



Mental models: A few key informants working on civil justice described negative public opinions of their issues because of overarching prejudice and bias against low-income people, and low-income people of color in particular. Public perception of the “undeserving poor,” or—in the case of fines and fees related to child support—“deadbeat dads,” must be addressed in order to achieve support for civil justice issues and approaches.

While advocates are still working to confront these challenges, they may be able to draw on the interconnection between fines, fees, and imprisonment, and narratives around prison reform and mass incarceration. There is extensive evidence of racial disparities that affect every stage of the U.S. criminal justice system, from policing, pre-trial, and sentencing to parole and post-prison effects on housing, employment, voting, and other social services.¹⁶⁸ Among those working to illuminate the connections between racism and the criminal justice system, the Equal Justice Initiative (EJI) is undertaking narrative change work around racial justice in America.¹⁶⁹ Though not directly related to civil justice, EJI is recognized for illuminating the connections between enslavement, racial terror, segregation, and mass incarceration. Such work may also benefit those challenging disparate imprisonment of blacks and Hispanics due to fines and fees related to both criminal and civil issues.

¹⁶⁶ Movement Law Lab.

¹⁶⁷ Shriver Center on Poverty Law, “Racial Justice Institute.”

¹⁶⁸ The Sentencing Project, “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System.”

¹⁶⁹ Equal Justice Initiative, “Racial Justice.”



| Housing: Right to Counsel on Evictions |

Key informants highlighted the need to improve tenants' access to legal representation in evictions. Evictions have significant negative effects on tenants, as they contribute to households moving to surroundings with "higher crime, more concentrated poverty, and fewer educational or employment opportunities."¹⁷⁰



Policy: In 2017, New York City enacted the first legislation in the United States to guarantee an attorney for eviction cases through a Universal Access to Counsel (UAC) program.¹⁷¹ Such legislation may maintain housing stability, helping low-income individuals remain part of their community, places of work, and schools.¹⁷²



Practice: New York City's UAC program offers tenants with incomes up to 200 percent of the federal poverty level who face eviction in housing court access to an attorney. The first phase of the program includes 20 of the city's 200+ zip codes. The remaining zip codes will be included by 2022.¹⁷³

The program has increased tenant representation in city housing court.¹⁷⁴ Tenants with representation also fared better in court and were able to remain in their homes.¹⁷⁵ Other cities have adopted or shown interest in adopting similar "right to counsel" legislation for tenants facing potential eviction or funding programs that provide legal representation to tenants facing eviction. Major cities like San Francisco, Cleveland, Newark, Los Angeles, Philadelphia, and Washington, D.C., have established programs that fund legal assistance to tenants and/or are considering expanded access to counsel legislation.¹⁷⁶ The National Coalition for a Civil Right to Counsel (NCCRC) maintains an interactive map of civil rights to counsel across the country, in order to work closely with state and local advocates.¹⁷⁷ The ABA developed the Directory of Law Governing Appointment of Counsel in State Civil Proceedings that provides state-by-state guidance on state statutes, court decisions, and court rules related to civil right to counsel.¹⁷⁸



Resource flows: Right to counsel programs require substantial startup capital and a large group of attorneys interested in practicing housing law. Jurisdictions may need to work with the government and funders to raise capital for establishing UAC programs and work with law schools or pro bono clinics to encourage more lawyers to practice housing law.¹⁷⁹ Further, tenants may need to be educated about the roles of right to counsel attorneys in landlord-tenant proceedings. As a result, UAC programs need resources

170 NYU Furman Center, "Implementing New York City's Universal Access to Counsel Program."

171 Ibid.

172 Ibid.

173 Mironova, "NYC Right to Counsel: First Year Results and Potential for Expansion."

174 Ibid.

175 Ibid.

176 NYU Furman Center, "Implementing New York City's Universal Access to Counsel Program: Lessons for Other Jurisdictions"; Brey, "Tenants' Right to Counsel on the Move, Next Stop Newark."

177 "National Coalition for a Civil Right to Counsel."

178 American Bar Association, "Directory of Law Governing Appointment of Counsel in State Civil Proceedings."

179 NYU Furman Center, "Implementing New York City's Universal Access to Counsel Program: Lessons for Other Jurisdictions."

to run public service campaigns and other educational efforts.¹⁸⁰ The New York City's City Council provided \$15 million in funding for the first phase of the UAC program in 2018.



Relationships and connections and power dynamics: The Right to Counsel NYC Coalition was formed in June 2014 to support right to counsel for low-income tenants. The coalition seeks to “build tenant power, challenge landlord intimidation and harassment and to build the movement to fight gentrification and displacement.”¹⁸¹ The coalition comprises tenant organizing groups, tenant advocates, homeless advocates, senior advocates, disability advocates, academics, and legal services organizations. It directed the citywide campaign that led to the passage of UAC. The coalition is now focused on the phased implementation of the law. In addition, the NCCRC, founded in 2003, is a national movement that supports state and local initiatives to establish civil right to counsel for individuals with low incomes.¹⁸²



Mental models: Garnering political will and buy-in for right to counsel takes time and resources. New York has the longest history of civil legal aid and is more progressive than much of the United States.¹⁸³ The city has assessed adequate representation for tenants since the establishment of housing courts in the 1970s.¹⁸⁴ In addition, there have been recent changes in narratives around eviction. Matthew Desmond's Pulitzer Prize-winning 2016 book, *Evicted: Poverty and Profit in the American City*, helped shed a national spotlight on mass evictions related to poverty. Several key informants cited the book as contributing to a narrative change around evictions and poverty. It inspired the mayor of Milwaukee, the setting of the book, to commit to building or renovating 10,000 housing units over the next decade. The National Building Museum also launched an exhibition, *Evicted*, on the life of Americans living in poverty and facing evictions, to highlight the issue, provide context, and function as a call to action.¹⁸⁵ Further, the Eviction Lab at Princeton University, led by Desmond, publishes a publicly available dataset of evictions in America dating back to 2000, to raise awareness and work towards solutions to the eviction crisis.¹⁸⁶

180 Ibid.

181 Right to Counsel NYC Coalition, “No Evictions, Defend Your Rights!”

182 “National Coalition for a Civil Right to Counsel.”

183 Houseman, “Civil Legal Assistance for Low-Income Persons: Looking Back and Looking Forward.”

184 NYU Furman Center.

185 Swartvagher, “10,000 New Social Housing Units – Thanks to Matthew Desmond’s EVICTED.”

186 “About Us | Eviction Lab.”



| Health: Medical-Legal Partnerships |

There is increasing consensus that social factors have a significant impact on health.¹⁸⁷ Such factors—including public benefit access, immigration status, substandard housing, or education and employment barriers—may require civil legal intervention. However, social, legal, and health systems in the United States are frequently siloed from one another and thereby misaligned to best address individuals' often overlapping needs. Key informants specifically highlighted the medical-legal partnership (MLP) approach as a way of breaking down silos and identifying legal needs before people end up in courts. MLPs embed legal services in health care settings and are seen as a promising tool to simultaneously address interrelated needs.



Policy: In 2014, the Health Resources and Services Administration (HRSA) formally recognized civil legal services as an enabling, nonclinical service that helps remove geographic, linguistic, cultural, and socioeconomic barriers to care.¹⁸⁸ This policy allows health centers to use federal funding for civil legal services. Additionally, MLP teams often encounter patterns of need that present opportunities to pursue community-level policy solutions.¹⁸⁹ Legal and advocacy victories won by MLPs include fixing Medicaid reimbursement rates in Washington State to improve access to at-home care for children, and eliminating administrative barriers to enrolling newborns in food benefits in Cincinnati County, Ohio.¹⁹⁰ Due to restrictions under the Health Insurance Portability and Accountability Act (HIPAA) and other privacy laws, health professionals and lawyers may face challenges when sharing patient data. However, MLPs have learned to work within the requirements of privacy laws by requesting patients' consent to share patient information.



Practice: Approximately 15 percent of health centers have an MLP.¹⁹¹ When a health care provider in an MLP detects a health-harming legal need, such as an unsafe living environment contributing to a health problem, clinical staff can refer patients directly to legal services.¹⁹² Often, clinical and legal services are co-located within a health center, so that a patient may simply walk down the hall for a legal consultation.¹⁹³



Resource flows: MLPs require funding, data, and staff inputs from participating civil, legal, and clinical entities.¹⁹⁴ Typically, legal organizations contribute the majority of funds for MLP staff hours and operational activities, particularly during the first few years.¹⁹⁵ Other forms of support may include in-kind contributions and fellowships, or other donated staffing arrangements.¹⁹⁶ A successful

187 Artiga and Hinton, "Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity."

188 National Center for Medical Legal Partnership, "HRSA Recognizes Civil Legal Aid as 'Enabling Service' for Health Centers."

189 National Center for Medical Legal Partnership, "Impact."

190 Marple and Dexter, "Increasing Nutritional Supports for Newborns"; Marple and Dexter, "Helping Kids Get At-Home Care."

191 Regenstein et al., "Addressing Social Determinants of Health through Medical-Legal Partnerships."

192 National Center for Medical Legal Partnership, "The Response."

193 Williamson, Trott, and Regenstein, "Health Center-Based Medical-Legal Partnerships."

194 Trott, Peterson, and Regenstein, "Medical-Legal Partnership Fundamentals Financing Medical-Legal Partnerships: View from the Field."

195 Regenstein, et al. "Addressing Social Determinants of Health."

196 Trott, Peterson, and Regenstein, "Medical-Legal Partnership Fundamentals."

partnership between medical and legal providers requires training to help them acclimate to MLPs' unique structure and processes.¹⁹⁷



Relationships and connections and power dynamics: MLPs rely on cross-sector constituencies, including health centers, local legal services agencies, academic legal clinics, and other legal and social service partners.¹⁹⁸ As depicted in a case report of the People's Community Clinic's MLP with Texas Legal Services Center in Austin, Texas, these connections are fundamental to an MLP's success and require maintenance. In this instance, building and maintaining successful relationships involved needs assessments to determine the level of involvement from all partners and the type and extent of services provided, staff buy-in to ensure mutual commitment, electronic communications infrastructure to support seamless medical-legal workflow integration, clinical staff who could champion the MLP, and sustainable funding sources. Further, having diverse community partners can assist MLPs in securing funding from internal and external sources that may initially be wary of the novel medical-legal relationship.¹⁹⁹



Mental models: Within the last 40 years, public health and health care systems have come to recognize that social factors have strong influences on health, and that social determinants of health have impacts on both individual and population levels.²⁰⁰ Leading health and science authorities such as the National Academies of Medicine, World Health Organization, and Centers for Disease Control and Prevention, and national philanthropies such as the Robert Wood Johnson Foundation and The Kresge Foundation, have aided and reinforced the paradigm shift away from solely biomedical explanations of health to those that include social determinants through research, publications, presentations, and funding.²⁰¹ MLPs represent a manifestation of this new paradigm, which emphasizes the interrelation of health and social influences, and exhorts actors in traditionally siloed sectors to work together to achieve health and social equity.



197 Regenstein, et al. "Addressing Social Determinants of Health."

198 Williamson, Trott, and Regenstein, "Health Center-Based Medical-Legal Partnerships."

199 Marple, "Using the Law to Inform Empowered Patient Care In Austin: The Story Of People's Community Clinic's Evolving Medical-Legal Partnership With Texas Legal Services Center."

200 Carey, Crammond, and Keast, "Creating Change in Government to Address the Social Determinants of Health: How Can Efforts Be Improved?"

201 "Social Determinants of Health - RWJF"; "Social Determinants of Health | CDC"; "WHO | Commission on Social Determinants of Health, 2005-2008"; National Academies of Sciences, Engineering and Medicine, *Communities in Action: Pathways to Health Equity*.

| Strategies to Scale and Replicate Civil Justice Approaches |

Our assessment considers the extent to which models of civil justice can be scaled or replicated in other jurisdictions, states, or nationally. Scalability addresses the potential of an approach or model to be increased in scope, while replicability speaks to its ability to be adapted and/or adopted in other jurisdictions or states. Key informants highlighted various strategies that would help programs, courts, cities, and states scale or replicate approaches to move toward a more modern civil justice system. They include:

Identifying and diversifying sources of funding. Key informants highlighted various initiatives to diversify and expand funding through:

- **Private philanthropy.** The vast majority of philanthropic funding for civil legal aid occurs at the local or state level. In addition, national funders like The Kresge Foundation, The Public Welfare Foundation, The Pew Charitable Trusts, and Open Society Foundation have invested in the civil justice field. For example, Kresge and Pew have provided funding for about one-third of the organizations represented in our sample (see Appendix A). Private philanthropy has promoted many state and national efforts, like the Justice for All state grant initiative, supported by the Public Welfare Foundation, Kresge, Open Society Foundations, and the JPB Foundation.²⁰²

"We need national philanthropy to fund critical infrastructure pieces."

– Key Informant on Funding

- **Untapped public funding streams for legal aid.** This includes working with state and local government agencies and legal aid organizations to identify and apply for appropriate funds through block or formula federal grants that allow for spending on legal services. For example, building on the federal work started in 2012 by the U.S. Department of Justice's Legal Aid Interagency Roundtable (LAIR),²⁰³ the Justice in Government project at American University engages state and local governments in initiatives to "embed civil legal aid into existing priorities, programs, and appropriations to increase effectiveness, efficiency, and fairness for low-income and moderate-income people and communities."²⁰⁴ This work is supported by the National Legal Aid and Defenders Association's Civil Legal Aid Initiative.²⁰⁵
- **Alternative business models,** such as using sliding-scale models and leveraging lawyers' fees. Legal aid organizations can incorporate fee-for-service and sliding-scale fees in their services to generate revenue. When used with cost-effective non-attorney staff supports, they may help create sustainability for serving low- to moderate-income people. Fees may also serve as a buffer to variability in public funding due to politically influenced allocations or restrictions.²⁰⁶ These approaches have been used in immigration-related services provided by members of the Immigration Advocates Network and in a pilot at City University of New York (CUNY) Law School.

²⁰² Center on Court Access to Justice for All, "Justice for All Initiative."

²⁰³ White House Legal Aid Interagency Roundtable, "Expanding Access to Justice, Strengthening Federal Programs: First Annual Report of the White House Legal Aid Interagency Roundtable."

²⁰⁴ American University School of Public Affairs, "The Justice in Government Project."

²⁰⁵ National Legal Aid and Defenders Association, "Civil Legal Aid Initiative: Non-LSC Federal Resources."

²⁰⁶ Mitch, "Tipping the Scales of Justice: The Role of Nonprofit Sliding Scale Law Firm in the Delivery of Legal Services."

In addition to these existing efforts, Social Finance, Inc. conducted a feasibility study on the use of Pay for Success (PFS) strategies to expand access to justice through civil legal aid.²⁰⁷ While the study found promise in applying PFS strategies to the specific issue of eviction defense and MLP, it cautioned that applying PFS to civil legal aid needs more broadly requires further study. Further development would require greater evidence of impact on civil legal assistance, stronger data on outcomes, and articulation of the value of access to justice to individuals and communities.

Enhancing workforce capacity. Key informants sought to foster a new generation of diverse lawyers and legal services practitioners who are using innovative public interest strategies to safeguard and enhance justice by:

- **Embedding staff in government agencies**, which helps improve service delivery processes and designs. For example, the Public Rights Project (PRP) increases state- and local-level capacity for affirmative litigation work. PRP hosts two fellowship programs that embed public-interest attorneys within state and city government law offices to train current state and local government attorneys.²⁰⁸ PRP also provides pro bono legal, technical assistance, and strategic consulting services to localities and states interested in doing more affirmative civil litigation. Finally, PRP convenes city, state, and local attorneys' offices to enhance collaboration and strategic planning.
- **Using training and staff supports** to enhance legal advocacy efforts and support capacity-building. For example, the Racial Justice Institute at the Shriver Center provides a national training and support program for legal aid and other public interest lawyers on topics such as community lawyering. In addition, the Movement Law Lab and incubator model initiatives are working to grow the field of community-based lawyers who engage in direct services provision and in legal advocacy. An ABA survey of lawyer incubator programs found that they are advancing pro-bono services to low- and moderate-income populations and providing new lawyers with educational and practice management tools, although there are concerns about sustainability.²⁰⁹ Finally, the Justice Index tracks the implementation of best policies for access to justice in an online matrix as a means of educating reformers and aligning their respective efforts to replicate those policies in all states in the country.²¹⁰
- **Investing in a diverse civil justice workforce** that includes diversity by race/ethnicity, gender, sexual orientation, and socioeconomic status. As one key informant noted:

We need to invest, particularly in the leadership of lawyers coming from the communities that they're working in. So that is more lawyers of color. A lot of legal services programs are still led by people that are older, that are white,...that don't have lived experiences with any type of the issues that the clients are going through. And I really feel that funders need to invest in the visionary leadership of women of color, of black women [in particular]. And not to be essentialist about identity, but there is something really powerful about lived experience and deep connections into a community.

207 Bal et al., "Expanding Access to Justice with Social Impact Financing."

208 Public Rights Project, "Affirmative Leaders Fellowship."

209 American Bar Association, "2016 Comprehensive Survey of Lawyer Incubators ABA Standing Committee on the Delivery of Legal Services."

210 Justice Index, justiceindex.org. See also, Introduction to the Justice Index (May 1, 2019) available on ncforaj.org, at <https://ncforaj.org/wp-content/uploads/2019/05/Introduction-to-the-Justice-Index-5-1-19.pdf>.

Stakeholders also highlighted the need for cultural competency training and poverty simulations for legal service providers, attorneys, and judges.

- **Increasing salaries of public interest and legal aid lawyers.** As one key informant observed: Historically, legal-aid lawyers are the lowest paid public-interest lawyers across the country. Paid lower than civil rights lawyers. Paid lower than prosecutors and public defenders. And so the community at large, and funders in particular, really need to be supportive of decent salaries for legal-aid staff, lawyers, and non-lawyers. In order for me to attract and retain excellent lawyers, I have to pay them decently.

Increasing multidisciplinary collaboration and coordination. Key informants spoke about the benefit of greater collaboration among civil legal stakeholders, government agencies, and other racial justice or social justice advocates by:

- **Developing national coalitions around key issues.** Rather than work only on local issues in specific regions, several key informants emphasized the importance of developing national coalitions and campaigns to achieve change. Several offered examples of immigrant-related advocacy, including the Protecting Immigrant Families Coalition and activity around sanctuary cities. Others referred to national campaigns to reform criminal justice as examples of taking issue-specific campaigns to scale.²¹¹
- **Coordinating funding across a diverse array of donors.** For example, one key informant described the Legal Services Funders Network as a region-specific network that seeks to increase the level of interest of foundations and corporations in civil legal services and to create a learning environment for funders interested in this sector in the San Francisco area. Similarly, in 2014, the Massachusetts Access to Justice Commission released a feasibility study on how the civil legal aid community could build funding relationships outside the legal community.²¹² The report found low awareness of legal aid and highlighted the need for annual statewide campaigns and educational efforts to engage businesses, business leaders, and non-lawyers. As an example of support from the business community, Kenneth Frazier, Chairman and CEO of Merck & Co., Inc., and Co-Chair of LSC's Legal Council, notes in a recent *Daedalus* article, "Corporate engagement in strengthening legal services in the United States is . . . an expression of corporate self-interest."²¹³

Raising awareness and narrative change. Key informants stressed the importance of raising awareness around civil justice and successful approaches by:

- **Conducting state or national campaigns.** Various approaches leverage political momentum via state or national campaigns to increase awareness about an issue. For example, the Chan Zuckerberg Initiative is a lead sponsor in a national campaign to bring automated record sealing of criminal records to every state, beginning with California, Connecticut, North Carolina, and Michigan.²¹⁴ This campaign is leveraging national momentum around criminal justice reform.

211 Justice Index, justiceindex.org. See also, Introduction to the Justice Index (May 1, 2019) available on ncforaj.org, at <https://ncforaj.org/wp-content/uploads/2019/05/Introduction-to-the-Justice-Index-5-1-19.pdf>.

212 Massachusetts Access to Justice Commission, "Feasibility of Statewide Campaign to Raise Funds from Major Donors Who Are Not Lawyers."

213 Frazier, "Why Big Business Should Support Legal Aid."

214 "CZI Joins More Than 25 Partners Launch National Bipartisan 'Clean Slate' Initiative to Automate Clearing of Criminal Records."

- **Sharing best practices and approaches.** As one policy stakeholder observed:
The first piece of scaling is raising awareness [about] what is scalable, and spreading the word about that to plant the seeds of interest and knowledge throughout the community. That is something we are intentional about. Trying to keep our community abreast of new models, new opportunities, and so we have had people [come] into our conferences to talk about new models, like navigators, and new technologies.
- **Additionally,** the Justice Index is a tool intended to share best practices and approaches among reformers.²¹⁵

Enhancing the evidence base using data and research. Most interviewees emphasized that a crucial element of scaling or replicating models of civil justice is having evidence or data on the impact of existing models, apps, and tools. This includes:

- **Evaluating approaches, processes, and technology,** as well as creating repositories of data and enabling data-sharing across stakeholders. The A2J lab at Harvard University and the Justice in Government Project (both noted above) are generating and sharing reliable research and data to support decision making. One key informant described a vision “where [the civil justice system is] data-enabled, so that it leverages big data or small data to assess problems, monitor progress, evaluate what works, and then it’s also designed to scale.”

“Our use cases are an effort to demonstrate to governments and to nongovernmental organizations that this is a [civil legal] capacity and approach that they need in order to do what they do and be more effective at it.”

—Key Informant on Capacity Building

- **Identifying potential use cases.** As one key informant explained, “We’re on the hunt for major use cases, which have the right elements in place to be substantial, innovative work that can get to scale and then create momentum...our theory is, you should be able to apply [such] approaches to almost any kind of problem solving.”
- **Integrating capacity to scale into pilots or projects.** To ensure potential scalability of a pilot or program, it is important to include capacity to scale strategically, as part of the program. One key informant highlighted this step in their organization’s process of developing an app to help locate social services; integration meant determining what it takes to bring the resource to the jurisdiction and what capacities exist for scaling, particularly through measurement and evaluation. The informant noted the limits of “a lot of projects [that] crop up and they don’t have scaling capacity as part of the project, integrated into it. Whether that is M and E [measurement and evaluation], someone whose job it is to quantify what it took to make this happen, what it will take to replicate it someplace else.”

215 Justice Index, justiceindex.org. See also, Introduction to the Justice Index (May 1, 2019).

It is important to note, however, potential barriers or areas of consideration when determining whether a model or approach can be applied more broadly or replicated across jurisdictions. These may include:

- Reductions in funding for civil legal aid, including LSC funds.²¹⁶
- Restrictions in use of funding, including prohibitions on work involving advocacy, immigration, abortion, and (with a few exceptions) criminal defense.^{217,218} For example, LSC-funded organizations can be restricted from carrying out certain prescribed activities even with funding supplied from non-federal sources.
- High start-up costs to establish programs, e.g., new programs for non-attorney staff supports and right to counsel initiatives.²¹⁹
- Variations in state laws and policies, which may make it difficult to standardize approaches to civil justice reform at a national level.
- Variations in local and community context, which often require approaches or strategies to be customized or adapted to serve the needs of particular communities.

216 Sandman, "The Role of the Legal Services Corporation in Improving Access to Justice"; Houseman and Perle, "Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States."

217 Caplan, "The Invisible Justice Problem."

218 Houseman and Perle, "Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States."

219 Clarke and Sandefur, "Preliminary Evaluation of the Washington State Limited License Legal Technician Program," 2017.

| Conclusion |

Through semi-structured interviews, our assessment engaged a varied group of stakeholders across the country who are testing and implementing approaches to civil justice, as well as employing strategies to scale those approaches more broadly. These 38 national leaders in civil justice and related fields have first-hand perspectives as representatives of courts, funders, legal services providers, researchers, scholars, and advocates. We supplemented these interviews with a review of recent peer-reviewed and grey literature, and used a framework of systems change to guide our analysis.

Key informants identified a set of principles for a modern system that challenges current barriers to civil justice. They envisioned a modern civil justice system to be person centered, accountable, coordinated, technologically enhanced, and data driven. They described approaches that exemplify these five principles and target different aspects of systems change: structural strategies related to policies, practices, and resources; relational strategies around partnerships, connections, and power dynamics; and transformational strategies addressing mental models. These approaches highlight the importance of increasing the availability of civil legal aid attorneys, but also extend much further to highlight the importance of non-attorney supports (e.g., self-help tools, paraprofessionals, online dispute resolutions) and more efficient use of attorney supports (e.g., integrated technologies, judicial engagement and training, unbundling). They also target underlying systems of inequity (e.g., communications campaigns; community engagement, affirmative, and class-action litigation).

Furthermore, respondents repeatedly identified several high-resonance issues that underlie civil justice problems. These issues are broadly related to economic opportunity, well-being, and racial equity. We found approaches that exemplify the principles of a modern justice system and focus on these issues in particular. They include automatic records sealing of criminal records, reforms around fees and fines, right to counsel on evictions, and medical-legal partnerships. While these examples are meant to be illustrative and not comprehensive, they were among those most often cited by key informants. They also highlight connections between civil and criminal justice systems, and calls for reform in the justice system overall.

Interviewees also described efforts to scale or replicate approaches to civil justice. While such efforts require policy changes on a broad range of issues in courts and the practice of law, they also relied on identifying and diversifying sources of funding, enhancing workforce capacity; increasing multidisciplinary collaboration and coordination, raising awareness and achieving narrative change; and providing an evidence base using data and research. To build on these efforts, key informants emphasized the need for additional clear and compelling policy solutions rooted in data about the evidence of effectiveness of civil legal interventions.

Our study is limited by our data sources and time. This independent assessment took place outside of past and present attempts to identify priorities in civil justice and to coordinate reforms. We did not seek to reach consensus among participants about priorities in terms of approaches to civil justice or issues, nor did we evaluate the effectiveness of each approach that we presented in this report. Rather, we present the range of perspectives among our diverse but limited sample of experts and the evidence of effectiveness that currently exists in the field. While our assessment identified examples of existing approaches at structural, relational, and/or transformational levels on particular issues, this does not

mean that there is the necessary coordination across approaches to bring about systems change. Our framework for systems change suggests that the coordination of multiple approaches across these levels offers potential to sustain key principles of a modern civil justice system. Further research and consensus building could be undertaken to develop a comprehensive policy reform agenda that would fix existing laws and policies that undermine civil justice for all.

| Appendix A: Methods |

NORC conducted interviews and a literature review to inform our field assessment. This section provides a description of methods used for data collection and analysis.

Interviews

From January to May 2019, NORC conducted telephone and in-person interviews with 38 stakeholders working within and outside the civil justice field.

IRB Approval. NORC’s Institutional Review Board (IRB) reviewed the research materials, including the discussion guide for the semi-structured interviews, and facilitated group discussions. The NORC IRB found the research activities to be exempt

Sample Selection. NORC received a list of over 60 stakeholders identified by Pew and Kresge for their leadership on a range of approaches to civil justice. These stakeholders covered a broad range of fields including technology, policy, advocacy, legal services, impact litigation, courts, process design, and grassroots organizing. Pew and Kresge also identified six stakeholders from the overlapping fields of economic development, human services, and housing. NORC worked closely with Pew and Kresge to refine and update this list over the course of the project. NORC prioritized interviewing stakeholders who Pew and Kresge determined to be necessary to include due to their expertise and potential to inform the field assessment. NORC, Pew, and Kresge intentionally sampled experts that represented not only a variety of fields but also racial/ethnic groups and geographic areas. The final list of interviewed stakeholders is listed in Exhibit 1.

Exhibit 1. List of Interviewed Stakeholders

Name	Title	Organization/project*+
Anne Price	President	Insight, Center for Community Economic Development
Ari Simon	Vice President	Kresge Foundation
Betty Torres	Executive Director	TX Access to Justice Foundation - IOLTA
Bonnie Hough	Principal Managing Attorney	Center for Families, Children & the Courts of the Judicial Council of California
Cecilia Muñoz	Former Director of Domestic Policy; Current: VP, Public Interest Technology and Local Initiative	Former Co-Chair – DOJ Legal Aid Interagency Roundtable; now at New America@

* Former or current grantee of The Kresge Foundation

+ Former or current grantee of The Pew Charitable Trust Foundation

Name	Title	Organization/project*+
Charles Dunlap	President	National Association of IOLTA funders and ED, Indiana Bar Foundation
Claudia Johnson	Program Manager	LawHelp Interactive/Pro Bono Net
Colleen Cotter	Executive Director	Legal Aid of Cleveland
David Dodson	President	MDC*
Ralph Gildehaus	Senior Project Director	
Fern Fisher	Former Chief Administrative Judge	NYC Courts; now at Hofstra University
James Sandman	President	Legal Services Corporation (LSC)*
James W. Head	President	East Bay Community Foundation
Jill Habig	Founder	Public Rights Project (PRP)
Jo-Ann Wallace	President and CEO	National Legal Aid and Defender Association (NLADA)*
Radhika Singh	Chief, Civil Legal Services	
John Bouman	Executive Director	Shriver Center on Poverty Law - Legal Impact Network*
Jonathan Pyle	Attorney and technologist	Philadelphia Legal Assistance+
Karen Lash	Former DOJ, Consultant	Former Executive Director, White House Legal Aid Interagency Roundtable; now at: the Justice in Government Project at American University
Katherine Altender	Executive Director	Self-Represented Litigation Network (SRLN)*
Ken Zimmerman	Distinguished Senior Fellow	Furman Center and NYU
Lora Livingston	Judge	261st District Court - Texas (Austin); also Chair, ABA Standing Committee on Legal Aid and Indigent Defense (SCLAID)
Margaret Hagan	Director	Stanford Law School - Design Lab
Martha Bergmark	Executive Director	Voices for Civil Justice*
Mary McClymont	Staff Lead	Former President, Public Welfare Foundation* now at Navigators' Project at Georgetown Law Current: Navigators' Project at Georgetown Law

Name	Title	Organization/project*+
Matthew Burnett	Program Officer	Open Society Foundations
Michael Thompson	Vice President, State and Local Government	Pew Charitable Trusts
Purvi Shah	Founder	Movement Law Lab
Randy Susskind	Deputy Director	Equal Justice Initiative*
Rebecca Sandefur	Associate Professor	Arizona State University/ American Bar Foundation
Richard Zorza	Founder	Self-Represented Litigation Network (SRLN)
Sarah Glassmeyer	Project Management Specialist	ABA Center on Innovation+
Sharon Dietrich	Litigation Director and Managing Attorney	Community Legal Services
Shawn Morehead	Program Director, Education and Human Justice	New York Community Trust
Stacey Marz	Director of Self-Help Services	Alaska Court System*
Susan Dreyfus	President and CEO	Alliance for Strong Families and Communities*
Tanina Rostain	Researcher/Faculty	Georgetown Law School/Navigators Project*
Tracy Wareing	President and CEO	American Public Human Services Association (APHSA)*

Interview Guide. NORC developed a semi-structured interview guide with final review by Pew and Kresge. NORC adapted each guide to ensure we were capturing the unique perspectives of the various stakeholders. Exhibit 2 presents key domains from the protocols.

Exhibit 2. Interview Protocol Domains

- **Goals:** Goals of the civil legal-related work that key informant or their organization engages in
- **Approaches:** Range of approaches employed by key informant, promising approaches, racial equity and social justice lenses
- **Models of Innovation:** Approaches to civil justice that key informants consider innovative
- **Identity and Vision:** How key informants envision a modern system of justice and how civil legal approaches support that vision
- **Knowledge Base:** Research and evidence of effectiveness of civil legal approaches

Data Collection. NORC conducted both telephone and in-person interviews with key informants. Prior to each telephone interview, the team reviewed the organization’s website and work published by the stakeholder. We obtained verbal consent to take notes, make a recording, and share the recording and notes with the study funders at the outset of each interview. The interviewees agreed to have their names listed in the report, and to share notes and recordings with the funders (Pew and Kresge). They could refuse to be recorded and still participate. We also agreed to present findings within this report confidentially, and not associate particular findings with individuals by name. In some cases, we cited published articles of people whom we interviewed by name, as is typical when referencing literature. One senior staff member led each interview with one junior staff analyst taking notes. Recordings were used to create verbatim transcripts for data analysis purposes. All study materials (e.g., transcripts and recordings) were stored and securely transferred among the study partners.

We conducted six in-person interviews at the Legal Services Corporation’s Innovations in Technology Conference in New Orleans between January 9 and 11, 2019. We also held one interview with an attendee of this conference in Washington, D.C., afterward. In-person interviews were similar in length and followed a similar interview guide. In-person interviews may have allowed for better probing of responses if key informants appeared to have more to say on a subject but were unsure about whether to continue. Otherwise, we observed no substantive differences between interviews conducted over the phone or in-person.

Data Analysis. NORC used NVivo software (QSR International Pty Ltd., Melbourne, Australia) and applied best practices in qualitative research to compile and analyze interview data. A senior researcher developed a codebook, which the analysis team used to organize information on key topics and issues while keeping the information in context. Using broad codes, the team aggregated similar information, drawing comparisons across approaches and enabling targeted analysis within each code. To maintain rigor, the team met regularly to check for consistency during the coding period; a senior researcher also reviewed coding across the team. Thematic analyses allowed NORC to explore the context of suggested approaches, including their barriers and facilitators, as well as the implementation process. Qualitative analysis resulted in deep insights into how innovative approaches work, how experts in the field envision the future of civil justice, and current challenges to civil justice experienced by populations in need and without access to civil legal supports.

Literature Review

NORC conducted a literature review to document and validate the approaches and other key themes identified by stakeholders in interviews. We reviewed literature and reports identified by Pew and Kresge as well as literature recommended by stakeholders during interviews. NORC also conducted its own search of relevant literature through Google and websites of relevant federal, state, and local agencies, and legal and community support organizations (see Exhibit 3). Organizational websites include those of groups that have conducted relevant research, implemented relevant projects, and/or developed publications. We also used the “snowballing” technique for identifying other relevant literature and examining citations, bibliographies, or references from any given source to identify others sources or documents.

Our scan included both published (e.g., peer-reviewed) and gray literature. We developed an Excel spreadsheet to track relevant articles, with a row for each article or report reviewed and columns containing relevant domains based on the conceptual framework. These domains included Citation; Identity, Vision, or Goal; Target Population; Definition of/Type of Civil Legal Supports; Innovation or Approach Employed; Knowledge Base; Gap or Issue Addressed; Related Policies; Replicability/ Scalability; and Communications Approach.

Exhibit 3. Sample Search Terms

Search terms include:

- “civil justice” OR “civil legal supports” OR “civil legal aid” OR “civil legal assistance” OR “civil access”
- “approaches” OR “innovative approaches” OR “innovative models” OR “new models”
- “technology” OR “remote access technology”
- “portals”
- “self-help centers”
- “online dispute resolution” OR “online legal resource centers”
- “navigators” OR “non-attorney supports”
- “legal service providers” OR “courthouse navigators” OR “courthouse facilitators”
- “medical-legal partnership”
- “governance structure”
- “communication strategies” OR “communication” OR “communication approaches” OR “information sharing”

| Appendix B: Acronyms |

ABA	American Bar Association
ABF	American Bar Foundation
CLEAR Hotline	Coordinated Legal Education, Advice and Referral Hotline
CL	Community lawyering
DOJ	U.S. Department of Justice
EJI	Equal Justice Initiative
HCC	Housing Conditions Court
HHS	U.S. Department of Health and Human Services
HIPAA	Health Insurance Portability and Accountability Act
HRSA	Health Resources and Services Administration
JAN	Justice Action Network
LAIR	Legal Aid Interagency Roundtable
LE	Legal empowerment
LLLT	Limited Licensed Legal Technician
LSC	Legal Services Corporation
MLP	Medical-legal partnership
NGO	Non-governmental organization
NCCRC	National Coalition for a Civil Right to Counsel
NYC	New York City
ODR	Online Dispute Resolution
PRP	Public Rights Project
SRL	Self-represented litigant
SRLN	Self-Represented Litigation Network
UAC	Universal Access to Counsel

| Appendix C: Glossary of Terms |

Affirmative Habitability Claims	Tenants dealing with habitability violations or nuisances can bring an affirmative suit or assert some theories defensively as a setoff in an eviction action by the landlord against the tenant for nonpayment of rent.
Affirmative Litigation	Affirmative litigation refers to proactive plaintiff civil litigation undertaken by attorneys in state and local governments to advance the public interest.
Chapter 7 Bankruptcy	Chapter 7 of Title 11 in the U.S. bankruptcy code controls the process of asset liquidation. A trustee is appointed to liquidate nonexempt assets to pay creditors; after the proceeds are exhausted, the remaining debt is discharged.
Class Action	A class action, also known as a class action lawsuit, class suit, or representative action, is a type of lawsuit where one of the parties is a group of people who are represented collectively by a member of that group.
Community Engagement	Community engagement involves engaging or working with individuals and community members in efforts to more systemically address issues.
Community Lawyering	Community lawyering involves community-based approaches to legal services that integrate lawyers into the community
Expungement	An expungement is a court-ordered process in which the legal record of an arrest or a criminal conviction is "sealed" or destroyed.
Fee-Shifting	Fee-shifting statutes require the loser in a legal matter to pay for the legal fees and costs of the prevailing party.
Impact Litigation	Impact litigation or strategic litigation is the practice of bringing lawsuits intended to effect societal change. Impact litigation cases may be class action lawsuits or individual claims with broader significance, and may rely on statutory law arguments or on constitutional claims.
Key Informant/ Informant	This term refers to persons interviewed by NORC.
Legal Empowerment	Legal empowerment ensures that individuals and communities, particularly disenfranchised communities, have an increased voice in institutional and legal reforms to expand legal protections and improve their rights.
Non-Governmental Organization	A non-governmental organization is a nonprofit organization that operates independently of any government, typically one whose purpose is to address a social or political issue.
Participatory Design	This design incorporates users into the design and development process rather than rely on a proxy of experts or insert user testing after the design process like other legal design models.

Person-Centered Approach	This approach is organized around needs, values, and abilities of the person seeking help.
Right to Counsel	Civil right to counsel, sometimes called "Civil Gideon", refers to the idea that people who are unable to afford lawyers in legal matters involving basic human needs - such as shelter, sustenance, safety, health, and child custody - should have access to a lawyer at no charge
Self-Help Center	This is a free walk-in service that provides unrepresented people with general legal information, and is generally located within the courthouse
Self-Represented Litigants	These individuals who represent themselves in a dispute proceeding before Court. The term is used interchangeably with "pro-se" and "lay litigants"
Triage Portals	This refers to online or physical portals designed to screen and triage litigants
Unbundling, or Limited Scope Representation	Unbundling is a model in which a lawyer assists a litigant for a discrete legal task rather than performing the full range of services that traditionally fall under legal representation
Virtual Advice Technology	This technology provides legal advice virtually through different forms of technology.

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Support for this project was provided by The Kresge Foundation and The Pew Charitable Trusts. The views expressed herein are those of the authors and do not necessarily reflect the views of The Pew Charitable Trusts or The Kresge Foundation.

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